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| NPRR Number | [1115](https://www.ercot.com/mktrules/issues/NPRR1115) | NPRR Title | Administrative Changes for February 1, 2022 Nodal Protocols - Update ERCOT Austin Office Address |
| Date Posted | January 14, 2022 |
| Status | Administrative Change |
|  |  |
| Nodal Protocol Sections Requiring Revision  | Section 22 Attachment A, Standard Form Market Participant AgreementSection 22 Attachment B, Standard Form Reliability Must-Run AgreementSection 22 Attachment D, Standard Form Black Start AgreementSection 22 Attachment L, Declaration of Private Use NetworkNet Generation Capacity AvailabilitySection 23 Form A, Congestion Revenue Right (CRR) Account Holder Application for RegistrationSection 23 Form B, Load Serving Entity (LSE) Application for RegistrationSection 23 Form D, Market Participant Agency AgreementSection 23 Form E, Notice of Change of InformationSection 23 Form F, Qualified Scheduling Entity (QSE) Agency AgreementSection 23 Form G, QSE Application and Service Filing for Registration FormSection 23 Form I, Resource Entity Application for RegistrationSection 23 Form J, Transmission and/or Distribution Service Provider Application for RegistrationSection 23 Form K, Wide Area Network (WAN) AgreementSection 23 Form L, Digital Certificate Audit AttestationSection 23 Form M, Independent Market Information System Registered Entity (IMRE) Application for RegistrationSection 23 Form N, Pricing Election for Settlement Only Distribution Generators and Settlement Only Transmission Generators |
| Related Documents Requiring Revision/Related Revision Requests | None |
| Revision Description | Effective February 1, 2022, the address of ERCOT’s Austin office, currently located at 7620 Metro Center Drive, Austin, Texas 78744, will change to 8000 Metropolis Drive (Building E), Suite 100, Austin, TX 78744.  This Administrative Nodal Protocol Revision Request (NPRR) updates forms and attachments in the Protocols to reflect the new ERCOT Austin address. |
| Reason for Revision |  Addresses current operational issues. Meets Strategic goals (tied to the [ERCOT Strategic Plan](http://www.ercot.com/content/wcm/lists/144926/ERCOT_Strategic_Plan_2019-2023.pdf) or directed by the ERCOT Board). Market efficiencies or enhancements[x]  Administrative Regulatory requirements Other: (explain)*(please select all that apply)* |
| Business Case | This NPRR maintains accurate physical mailing address information for ERCOT as reflected in the attachments and forms contained in the Protocols. Administrative NPRRs are allowed pursuant to paragraph (4) of Section 21.2, Introduction. |
| ERCOT Market Impact Statement | ERCOT Staff has reviewed NPRR1115 and believes the market impact for NPRR1115 maintains accurate mailing information for attachments and forms within Protocols. |

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| Sponsor |
| Name | Cory Phillips |
| E-mail Address | cory.phillips@ercot.com |
| Company | ERCOT |
| Phone Number | 512-248-6464 |
| Cell Number |  |
| Market Segment | Not applicable |

|  |
| --- |
| **Market Rules Staff Contact** |
| **Name** | Cory Phillips |
| **E-Mail Address** | cory.phillips@ercot.com |
| **Phone Number** | 512-248-6464 |

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| --- |
| Proposed Protocol Language Revision |

**ERCOT Nodal Protocols**

**Section 22**

**Attachment A: Standard Form Market Participant Agreement**

**November 1, 2018**

Standard Form Market Participant Agreement

Between

Insert Participant

and

Electric Reliability Council of Texas, Inc.

This Market Participant Agreement (“Agreement”), effective as of the\_\_\_\_\_\_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_,\_\_\_\_\_\_\_\_\_\_\_ (“Effective Date”), is entered into by and between Insert Participant, a [Insert State of Registration and Entity type] (“Participant”) and Electric Reliability Council of Texas, Inc., a Texas non-profit corporation (“ERCOT”).

##### Recitals

WHEREAS:

A. As defined in the ERCOT Protocols, Participant is a (check all that apply):

[ ]  Load Serving Entity (LSE)

[ ]  Qualified Scheduling Entity (QSE)

[ ]  Transmission Service Provider (TSP)

[ ]  Distribution Service Provider (DSP)

[ ]  Congestion Revenue Right (CRR) Account Holder

[ ]  Resource Entity

[ ]  Renewable Energy Credit (REC) Account Holder

[ ]  Independent Market Information System Registered Entity (IMRE)

B. ERCOT is the Independent Organization certified under PURA §39.151 for the ERCOT Region; and

C. The Parties enter into this Agreement in order to establish the terms and conditions by which ERCOT and Participant will discharge their respective duties and responsibilities under the ERCOT Protocols.

Agreements

NOW, THEREFORE, in consideration of the mutual covenants and promises contained herein, ERCOT and Participant (the “Parties”) hereby agree as follows:

Section 1. Notice.

All notices required to be given under this Agreement shall be in writing, and shall be deemed delivered three (3) days after being deposited in the U.S. mail, first class postage prepaid, registered (or certified) mail, return receipt requested, addressed to the other Party at the address specified in this Agreement or shall be deemed delivered on the day of receipt if sent in another manner requiring a signed receipt, such as courier delivery or overnight delivery service. Either Party may change its address for such notices by delivering to the other Party a written notice referring specifically to this Agreement. Notices required under the ERCOT Protocols shall be in accordance with the applicable Section of the ERCOT Protocols.

If to ERCOT:

Electric Reliability Council of Texas, Inc.

Attn: Legal Department

8000 Metropolis Drive (Building E), Suite 100

Austin, Texas 78744

Telephone: (512) 225-7000

Facsimile: (512) 225-7079

If to Participant:

[Insert Participant Name]

[Insert Contact Person/Dept.]

[Insert Street Address]

[Insert City, State Zip]

[Insert Telephone]

[Insert Facsimile]

Section 2. Definitions.

A. Unless herein defined, all definitions and acronyms found in the ERCOT Protocols shall be incorporated by reference into this Agreement.

B. “ERCOT Protocols” shall mean the document adopted by ERCOT, including any attachments or exhibits referenced in that document, as amended from time to time, that contains the scheduling, operating, planning, reliability, and Settlement (including Customer registration) policies, rules, guidelines, procedures, standards, and criteria of ERCOT. For the purposes of determining responsibilities and rights at a given time, the ERCOT Protocols, as amended in accordance with the change procedure(s) described in the ERCOT Protocols, in effect at the time of the performance or non-performance of an action, shall govern with respect to that action.

Section 3. Term and Termination.

A. Term. The initial term ("Initial Term") of this Agreement shall commence on the Effective Date and continue until the last day of the month which is twelve (12) months from the Effective Date. After the Initial Term, this Agreement shall automatically renew for one-year terms (a "Renewal Term") unless the standard form of this Agreement contained in the ERCOT Protocols has been modified by a change to the ERCOT Protocols. If the standard form of this Agreement has been so modified, then this Agreement will terminate upon the effective date of the replacement agreement This Agreement may also be terminated during the Initial Term or the then-current Renewal Term in accordance with this Agreement.

B. Termination by Participant. Participant may, at its option, terminate this Agreement:

(1) Immediately upon the failure of ERCOT to continue to be certified by the PUCT as the Independent Organization under PURA §39.151 without the immediate certification of another Independent Organization under PURA §39.151;

(2) If the “REC Account Holder” box is checked in Section A. of the *Recitals* section of this Agreement, Participant may, at its option, terminate this Agreement immediately if the PUCT ceases to certify ERCOT as the Entity approved by the PUCT (“Program Administrator”) for carrying out the administrative responsibilities related to the Renewable Energy Credit Program as set forth in PUC Substantive Rule 25.173(g) without the immediate certification of another Program Administrator under PURA §39.151; or

(3) For any other reason at any time upon thirty days written notice to ERCOT.

C. Effect of Termination and Survival of Terms. If this Agreement is terminated by a Party pursuant to the terms hereof, the rights and obligations of the Parties hereunder shall terminate, except that the rights and obligations of the Parties that have accrued under this Agreement prior to the date of termination shall survive.

Section 4. Representations, Warranties, and Covenants.

A. Participant represents, warrants, and covenants that:

(1) Participant is duly organized, validly existing and in good standing under the laws of the jurisdiction under which it is organized and is authorized to do business in Texas;

(2) Participant has full power and authority to enter into this Agreement and perform all obligations, representations, warranties and covenants under this Agreement;

(3) Participant’s past, present and future agreements or Participant’s organizational charter or bylaws, if any, or any provision of any indenture, mortgage, lien, lease, agreement, order, judgment, or decree to which Participant is a party or by which its assets or properties are bound do not materially affect performance of Participant’s obligations under this Agreement;

(4) Market Participant’s execution, delivery and performance of this Agreement by Participant have been duly authorized by all requisite action of its governing body;

(5) Except as set out in an exhibit (if any) to this Agreement, ERCOT has not, within the twenty-four (24) months preceding the Effective Date, terminated for Default any Prior Agreement with Participant, any company of which Participant is a successor in interest, or any Affiliate of Participant;

(6) If any Defaults are disclosed on any such exhibit mentioned in subsection 4(A)(5), either (a) ERCOT has been paid, before execution of this Agreement, all sums due to it in relation to such Prior Agreement, or (b) ERCOT, in its reasonable judgment, has determined that this Agreement is necessary for system reliability and Participant has made alternate arrangements satisfactory to ERCOT for the resolution of the Default under the Prior Agreement;

(7) Participant has obtained, or will obtain prior to beginning performance under this Agreement, all licenses, registrations, certifications, permits and other authorizations and has taken, or will take prior to beginning performance under this Agreement, all actions required by applicable laws or governmental regulations except licenses, registrations, certifications, permits or other authorizations that do not materially affect performance under this Agreement;

(8) Participant is not in violation of any laws, ordinances, or governmental rules, regulations or order of any Governmental Authority or arbitration board materially affecting performance of this Agreement and to which it is subject;

(9) Participant is not Bankrupt, does not contemplate becoming Bankrupt nor, to its knowledge, will become Bankrupt;

(10) Participant acknowledges that it has received and is familiar with the ERCOT Protocols; and

(11) Participant acknowledges and affirms that the foregoing representations, warranties and covenants are continuing in nature throughout the term of this Agreement. For purposes of this Section, “materially affecting performance” means resulting in a materially adverse effect on Participant’s performance of its obligations under this Agreement.

B. ERCOT represents, warrants and covenants that:

(1) ERCOT is the Independent Organization certified under PURA §39.151 for the ERCOT Region;

(2) ERCOT is duly organized, validly existing and in good standing under the laws of Texas, and is authorized to do business in Texas;

(3) ERCOT has full power and authority to enter into this Agreement and perform all of ERCOT’s obligations, representations, warranties and covenants under this Agreement;

(4) ERCOT's past, present and future agreements or ERCOT's organizational charter or bylaws, if any, or any provision of any indenture, mortgage, lien, lease, agreement, order, judgment, or decree to which ERCOT is a party or by which its assets or properties are bound do not materially affect performance of ERCOT's obligations under this Agreement;

(5) The execution, delivery and performance of this Agreement by ERCOT have been duly authorized by all requisite action of its governing body;

(6) ERCOT has obtained, or will obtain prior to beginning performance under this Agreement, all licenses, registrations, certifications, permits and other authorizations and has taken, or will take prior to beginning performance under this Agreement, all actions required by applicable laws or governmental regulations except licenses, registrations, certifications, permits or other authorizations that do not materially affect performance under this Agreement;

(7) ERCOT is not in violation of any laws, ordinances, or governmental rules, regulations or order of any Governmental Authority or arbitration board materially affecting performance of this Agreement and to which it is subject;

(8) ERCOT is not Bankrupt, does not contemplate becoming Bankrupt nor, to its knowledge, will become Bankrupt; and

(9) ERCOT acknowledges and affirms that the foregoing representations, warranties, and covenants are continuing in nature throughout the term of this Agreement. For purposes of this Section, “materially affecting performance” means resulting in a materially adverse effect on ERCOT's performance of its obligations under this Agreement.

Section 5. Participant Obligations.

A. Participant shall comply with, and be bound by, all ERCOT Protocols.

B. Participant shall not take any action, without first providing written notice to ERCOT and reasonable time for ERCOT and Market Participants to respond, that would cause a Market Participant within the ERCOT Region that is not a “public utility” under the Federal Power Act or ERCOT itself to become a “public utility” under the Federal Power Act or become subject to the plenary jurisdiction of the Federal Energy Regulatory Commission.

Section 6. ERCOT Obligations.

A. ERCOT shall comply with, and be bound by, all ERCOT Protocols.

B. ERCOT shall not take any action, without first providing written notice to Participant and reasonable time for Participant and other Market Participants to respond, that would cause Participant, if Participant is not a “public utility” under the Federal Power Act, or ERCOT itself to become a “public utility” under the Federal Power Act or become subject to the plenary jurisdiction of the Federal Energy Regulatory Commission. If ERCOT receives any notice similar to that described in Section 5(B) from any Market Participant, ERCOT shall provide notice of same to Participant.

Section 7. [RESERVED]

Section 8. Default.

 A. Event of Default.

(1) Failure by Participant to (i) pay when due, any payment or Financial Security obligation owed to ERCOT or its designee, if applicable, under any agreement with ERCOT (“Payment Breach”), or (ii) designate/maintain an association with a QSE (if required by the ERCOT Protocols) (“QSE Affiliation Breach”), shall constitute a material breach and event of default ("Default") unless cured within one (1) Bank Business Day after ERCOT delivers written notice of the breach to Participant. Provided further that if such a material breach, regardless of whether the breaching Party cures the breach within the allotted time after notice of the material breach, occurs more than three (3) times in a 12-month period, the fourth such breach shall constitute a Default.

(2) A material breach other than a Payment Breach or a QSE Affiliation Breach includes any material failure by Participant to comply with the ERCOT Protocols. A material breach under this subsection shall constitute an event of Default by Participant unless cured within fourteen (14) Business Days after delivery by ERCOT of written notice of the material breach to Participant. Participant must begin work or other efforts within three (3) Business Days to cure such material breach after delivery of the breach notice by ERCOT, and must prosecute such work or other efforts with reasonable diligence until the breach is cured. Provided further that if a material breach, regardless of whether such breach is cured within the allotted time after notice of the material breach, occurs more than three (3) times in a 12-month period, the fourth such breach shall constitute a Default.

A material breach under this subsection shall not result in a Default if the breach cannot reasonably be cured within fourteen (14) Business Days, and Participant:

(a) Promptly provides ERCOT with written notice of the reasons why the breach cannot reasonably be cured within fourteen (14) Business Days;

(b) Begins to work or other efforts to cure the breach within three (3) Business Days after ERCOT’s delivery of the notice to Participant; and

(c) Prosecutes the curative work or efforts with reasonable diligence until the curative work or efforts are completed.

(3) Bankruptcy by Participant, except for the filing of a petition in involuntary bankruptcy or similar involuntary proceedings, that is dismissed within 90 days thereafter, shall constitute an event of Default.

(4) Except as otherwise excused herein, a material breach of this Agreement by ERCOT, including any material failure by ERCOT to comply with the ERCOT Protocols, other than a Payment Breach, shall constitute a Default by ERCOT unless cured within fourteen (14) Business Days after delivery by Participant of written notice of the material breach to ERCOT. ERCOT must begin work or other efforts within three (3) Business Days to cure such material breach after delivery by Participant of written notice of such material breach by ERCOT and must prosecute such work or other efforts with reasonable diligence until the breach is cured. Provided further that if a material breach, regardless of whether such breach is cured within the allotted time after notice of the material breach, occurs more than three (3) times within a 12-month period, the fourth such breach shall constitute a Default.

(5) If, due to a Force Majeure Event, a Party is in breach with respect to any obligation hereunder, such breach shall not result in a Default by that Party.

B. Remedies for Default.

(1) ERCOT's Remedies for Default. In the event of a Default by Participant, ERCOT may pursue any remedies ERCOT has under this Agreement, at law, or in equity, subject to the provisions of Section 10: Dispute Resolution of this Agreement. In the event of a Default by Participant, if the ERCOT Protocols do not specify a remedy for a particular Default, ERCOT may, at its option, upon written notice to Participant, immediately terminate this Agreement, with termination to be effective upon the date of delivery of notice. In the event of Participant’s bankruptcy, Participant waives any right to challenge ERCOT’s right to set off amounts ERCOT owes to Participant by the amount of any sums owed by Participant to ERCOT, including any amounts owed pursuant to the operation of the Protocols.

(2) Participant's Remedies for Default.

(a) Unless otherwise specified in this Agreement or in the ERCOT Protocols, and subject to the provisions of Section 10: Dispute Resolution of this Agreement in the event of a Default by ERCOT, Participant's remedies shall be limited to:

(i) Immediate termination of this Agreement upon written notice to ERCOT;

(ii) Monetary recovery in accordance with the Settlement procedures set forth in the ERCOT Protocols; and

(iii) Specific performance.

(b) However, in the event of a material breach by ERCOT of any of its representations, warranties or covenants, Participant's sole remedy shall be immediate termination of this Agreement upon written notice to ERCOT.

(3) A Default or breach of this Agreement by a Party shall not relieve either Party of the obligation to comply with the ERCOT Protocols.

C. Force Majeure.

(1) If, due to a Force Majeure Event, either Party is in breach of this Agreement with respect to any obligation hereunder, such Party shall take reasonable steps, consistent with Good Utility Practice, to remedy such breach. If either Party is unable to fulfill any obligation by reason of a Force Majeure Event, it shall give notice and the full particulars of the obligations affected by such Force Majeure Event to the other Party in writing or by telephone (if followed by written notice) as soon as reasonably practicable, but not later than fourteen (14) calendar days, after such Party becomes aware of the event. A failure to give timely notice of the Force Majeure event shall constitute a waiver of the claim of Force Majeure Event. The Party experiencing the Force Majeure Event shall also provide notice, as soon as reasonably practicable, when the Force Majeure Event ends.

(2) Notwithstanding the foregoing, a Force Majeure Event does not relieve a Party affected by a Force Majeure Event of its obligation to make payments or of any consequences of non-performance pursuant to the ERCOT Protocols or under this Agreement, except that the excuse from Default provided by subsection 8(A)(5) above is still effective.

D. Duty to Mitigate. Except as expressly provided otherwise herein, each Party shall use commercially reasonable efforts to mitigate any damages it may incur as a result of the other Party's performance or non-performance of this Agreement.

Section 9. Limitation of Damages and Liability and Indemnification.

A. EXCEPT AS EXPRESSLY LIMITED IN THIS AGREEMENT OR THE ERCOT PROTOCOLS, ERCOT OR PARTICIPANT MAY SEEK FROM THE OTHER, THROUGH APPLICABLE DISPUTE RESOLUTION PROCEDURES SET FORTH IN THE ERCOT PROTOCOLS, ANY MONETARY DAMAGES OR OTHER REMEDY OTHERWISE ALLOWABLE UNDER TEXAS LAW, AS DAMAGES FOR DEFAULT OR BREACH OF THE OBLIGATIONS UNDER THIS AGREEMENT; PROVIDED, HOWEVER, THAT NEITHER PARTY IS LIABLE TO THE OTHER FOR ANY SPECIAL, INDIRECT, PUNITIVE OR CONSEQUENTIAL DAMAGES OR INJURY THAT MAY OCCUR, IN WHOLE OR IN PART, AS A RESULT OF A DEFAULT UNDER THIS AGREEMENT, A TORT, OR ANY OTHER CAUSE, WHETHER OR NOT A PARTY HAD KNOWLEDGE OF THE CIRCUMSTANCES THAT RESULTED IN THE SPECIAL, INDIRECT, PUNITIVE OR CONSEQUENTIAL DAMAGES OR INJURY, OR COULD HAVE FORESEEN THAT SUCH DAMAGES OR INJURY WOULD OCCUR.

B. With respect to any dispute regarding a Default or breach by ERCOT of its obligations under this Agreement, ERCOT expressly waives any Limitation of Liability to which it may be entitled under the Charitable Immunity and Liability Act of 1987, Tex. Civ. Prac. & Rem. Code §84.006, or successor statute.

C. The Parties have expressly agreed that, other than subsections A and B of this Section, this Agreement shall not include any other limitations of liability or indemnification provisions, and that such issues shall be governed solely by applicable law, in a manner consistent with the Choice of Law and Venue subsection of this Agreement, regardless of any contrary provisions that may be included in or subsequently added to the ERCOT Protocols (outside of this Agreement).

D. The Independent Market Monitor (IMM), and its directors, officers, employees, and agents, shall not be liable to any person or Entity for any act or omission, other than an act or omission constituting gross negligence or intentional misconduct, including but not limited to liability for any financial loss, loss of economic advantage, opportunity cost, or actual, direct, indirect, or consequential damages of any kind resulting from or attributable to any such act or omission of the IMM, as long as such act or omission arose from or is related to matters within the scope of the IMM’s authority arising under or relating to PURA §39.1515 and PUC Subst. R. 25.365, Independent Market Monitor.

Section 10. Dispute Resolution.

A. In the event of a dispute, including a dispute regarding a Default, under this Agreement, Parties to this Agreement shall first attempt resolution of the dispute using the applicable dispute resolution procedures set forth in the ERCOT Protocols.

B. In the event of a dispute, including a dispute regarding a Default, under this Agreement, each Party shall bear its own costs and fees, including, but not limited to attorneys' fees, court costs, and its share of any mediation or arbitration fees.

Section 11. Miscellaneous.

A. Choice of Law and Venue. Notwithstanding anything to the contrary in this Agreement, this Agreement shall be deemed entered into and performable solely in Texas and, with the exception of matters governed exclusively by federal law, shall be governed by and construed and interpreted in accordance with the laws of the State of Texas that apply to contracts executed in and performed entirely within the State of Texas, without reference to any rules of conflict of laws. Neither Party waives primary jurisdiction as a defense; provided that any court suits regarding this Agreement shall be brought in a state or federal court located within Travis County, Texas, and the Parties hereby waive any defense of forum non-conveniens, except defenses under Tex. Civ. Prac. & Rem. Code §15.002(b).

B. Assignment.

(1) Notwithstanding anything herein to the contrary, a Party shall not assign or otherwise transfer all or any of its rights or obligations under this Agreement without the prior written consent of the other Party, which shall not be unreasonably withheld or delayed, except that a Party may assign or transfer its rights and obligations under this Agreement without the prior written consent of the other Party (if neither the assigning Party or the assignee is then in Default of any Agreement with ERCOT):

(a) Where any such assignment or transfer is to an Affiliate of the Party; or

(b) Where any such assignment or transfer is to a successor to or transferee of the direct or indirect ownership or operation of all or part of the Party, or its facilities; or

(c) For collateral security purposes to aid in providing financing for itself, provided that the assigning Party will require any secured party, trustee or mortgagee to notify the other Party of any such assignment. Any financing arrangement entered into by either Party pursuant to this Section will provide that prior to or upon the exercise of the secured party’s, trustee’s or mortgagee’s assignment rights pursuant to said arrangement, the secured creditor, the trustee or mortgagee will notify the other Party of the date and particulars of any such exercise of assignment right(s). If requested by the Party making any such collateral assignment to a Financing Person, the other Party shall execute and deliver a consent to such assignment containing customary provisions, including representations as to corporate authorization, enforceability of this Agreement and absence of known Defaults, notice of material breach pursuant to Section 8(A), notice of Default, and an opportunity for the Financing Person to cure a material breach pursuant to Section 8(A) prior to it becoming a Default.

(2) An assigning Party shall provide prompt written notice of the assignment to the other Party. Any attempted assignment that violates this Section is void and ineffective. Any assignment under this Agreement shall not relieve either Party of its obligations under this Agreement, nor shall either Party’s obligations be enlarged, in whole or in part, by reason thereof.

C. No Third Party Beneficiary. Except with respect to the rights of the Financing Persons in Section 11(B), (a) nothing in this Agreement nor any action taken hereunder shall be construed to create any duty, liability or standard of care to any third party, (b) no third party shall have any rights or interest, direct or indirect, in this Agreement or the services to be provided hereunder and (c) this Agreement is intended solely for the benefit of the Parties, and the Parties expressly disclaim any intent to create any rights in any third party as a third-party beneficiary to this Agreement or the services to be provided hereunder. Nothing in this Agreement shall create a contractual relationship between one Party and the customers of the other Party, nor shall it create a duty of any kind to such customers.

D. No Waiver. Parties shall not be required to give notice to enforce strict adherence to all provisions of this Agreement. No breach or provision of this Agreement shall be deemed waived, modified or excused by a Party unless such waiver, modification or excuse is in writing and signed by an authorized officer of such Party. The failure by or delay of either Party in enforcing or exercising any of its rights under this Agreement shall (a) not be deemed a waiver, modification or excuse of such right or of any breach of the same or different provision of this Agreement, and (b) not prevent a subsequent enforcement or exercise of such right. Each Party shall be entitled to enforce the other Party’s covenants and promises contained herein, notwithstanding the existence of any claim or cause of action against the enforcing Party under this Agreement or otherwise.

E. Headings. Titles and headings of paragraphs and sections within this Agreement are provided merely for convenience and shall not be used or relied upon in construing this Agreement or the Parties’ intentions with respect thereto.

F. Severability. In the event that any of the provisions, or portions or applications thereof, of this Agreement is finally held to be unenforceable or invalid by any court of competent jurisdiction, that determination shall not affect the enforceability or validity of the remaining portions of this Agreement, and this Agreement shall continue in full force and effect as if it had been executed without the invalid provision; provided, however, if either Party determines, in its sole discretion, that there is a material change in this Agreement by reason thereof, the Parties shall promptly enter into negotiations to replace the unenforceable or invalid provision with a valid and enforceable provision. If the Parties are not able to reach an agreement as the result of such negotiations within fourteen (14) days, either Party shall have the right to terminate this Agreement on three (3) days written notice.

G. Entire Agreement. Any exhibits attached to this Agreement are incorporated into this Agreement by reference and made a part of this Agreement as if repeated verbatim in this Agreement. This Agreement represents the Parties' final and mutual understanding with respect to its subject matter. It replaces and supersedes any prior agreements or understandings, whether written or oral. No representations, inducements, promises, or agreements, oral or otherwise, have been relied upon or made by any Party, or anyone on behalf of a Party, that are not fully expressed in this Agreement. An agreement, statement, or promise not contained in this Agreement is not valid or binding.

H. Amendment. The standard form of this Agreement may only be modified through the procedure for modifying ERCOT Protocols described in the ERCOT Protocols. Any changes to the terms of the standard form of this Agreement shall not take effect until a new Agreement is executed between the Parties.

I. ERCOT's Right to Audit Participant. Participant shall keep detailed records for a period of three years of all activities under this Agreement giving rise to any information, statement, charge, payment or computation delivered to ERCOT under the ERCOT Protocols. Such records shall be retained and shall be available for audit or examination by ERCOT as hereinafter provided. ERCOT has the right during Business Hours and upon reasonable written notice and for reasonable cause to examine the records of Participant as necessary to verify the accuracy of any such information, statement, charge, payment or computation made under this Agreement. If any such examination reveals any inaccuracy in any such information, statement, charge, payment or computation, the necessary adjustments in such information, statement, charge, payment, computation, or procedures used in supporting its ongoing accuracy will be promptly made.

J. Participant's Right to Audit ERCOT. Participant's right to data and audit of ERCOT shall be as described in the ERCOT Protocols and shall not exceed the rights described in the ERCOT Protocols.

K. Further Assurances. Each Party agrees that during the term of this Agreement it will take such actions, provide such documents, do such things and provide such further assurances as may reasonably be requested by the other Party to permit performance of this Agreement.

L. Conflicts. This Agreement is subject to applicable federal, state, and local laws, ordinances, rules, regulations, orders of any Governmental Authority and tariffs. Nothing in this Agreement may be construed as a waiver of any right to question or contest any federal, state and local law, ordinance, rule, regulation, order of any Governmental Authority, or tariff. In the event of a conflict between this Agreement and an applicable federal, state, and local law, ordinance, rule, regulation, order of any Governmental Authority or tariff, the applicable federal, state, and local law, ordinance, rule, regulation, order of any Governmental Authority or tariff shall prevail, provided that Participant shall give notice to ERCOT of any such conflict affecting Participant. In the event of a conflict between the ERCOT Protocols and this Agreement, the provisions expressly set forth in this Agreement shall control.

M. No Partnership. This Agreement may not be interpreted or construed to create an association, joint venture, or partnership between the Parties or to impose any partnership obligation or liability upon either Party. Neither Party has any right, power, or authority to enter any agreement or undertaking for, or act on behalf of, or to act as or be an agent or representative of, or to otherwise bind, the other Party.

N. Construction. In this Agreement, the following rules of construction apply, unless expressly provided otherwise or unless the context clearly requires otherwise:

(1) The singular includes the plural, and the plural includes the singular.

(2) The present tense includes the future tense, and the future tense includes the present tense.

(3) Words importing any gender include the other gender.

(4) The word “shall” denotes a duty.

(5) The word “must” denotes a condition precedent or subsequent.

(6) The word “may” denotes a privilege or discretionary power.

(7) The phrase “may not” denotes a prohibition.

(8) References to statutes, tariffs, regulations or ERCOT Protocols include all provisions consolidating, amending, or replacing the statutes, tariffs, regulations or ERCOT Protocols referred to.

(9) References to “writing” include printing, typing, lithography, and other means of reproducing words in a tangible visible form.

(10) The words “including,” “includes,” and “include” are deemed to be followed by the words “without limitation.”

(11) Any reference to a day, week, month or year is to a calendar day, week, month or year unless otherwise indicated.

(12) References to articles, Sections (or subdivisions of Sections), exhibits, annexes or schedules are to this Agreement, unless expressly stated otherwise.

(13) Unless expressly stated otherwise, references to agreements, ERCOT Protocols and other contractual instruments include all subsequent amendments and other modifications to the instruments, but only to the extent the amendments and other modifications are not prohibited by this Agreement.

(14) References to persons or entities include their respective successors and permitted assigns and, for governmental entities, entities succeeding to their respective functions and capacities.

(15) References to time are to Central Prevailing Time.

O. Multiple Counterparts. This Agreement may be executed in two or more counterparts, each of which is deemed an original but all constitute one and the same instrument.

SIGNED, ACCEPTED AND AGREED TO by each undersigned signatory who, by signature hereto, represents and warrants that he or she has full power and authority to execute this Agreement.

Electric Reliability Council of Texas, Inc.:

By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Title: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

***Participant:***

By:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name:

Title:

Date:

Market Participant Name:

Market Participant DUNS:

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| --- |
| [NPRR857: Replace Section 22 Attachment A above with the following upon system implementation:]Standard Form Market Participant AgreementBetweenParticipantandElectric Reliability Council of Texas, Inc.This Market Participant Agreement (“Agreement”), effective as of the\_\_\_\_\_\_\_\_\_\_\_ day of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_,\_\_\_\_\_\_\_\_\_\_\_ (“Effective Date”), is entered into by and between [Participant], a [State of Registration and Entity type] (“Participant”) and Electric Reliability Council of Texas, Inc., a Texas non-profit corporation (“ERCOT”).RecitalsWHEREAS:A. As defined in the ERCOT Protocols, Participant is a (check all that apply): [ ]  Load Serving Entity (LSE)[ ]  Qualified Scheduling Entity (QSE)[ ]  Transmission Service Provider (TSP)[ ]  Distribution Service Provider (DSP)[ ]  Congestion Revenue Right (CRR) Account Holder[ ]  Resource Entity[ ]  Renewable Energy Credit (REC) Account Holder [ ]  Independent Market Information System Registered Entity (IMRE) [ ]  Direct Current Tie Operator (DCTO) B. ERCOT is the Independent Organization certified under PURA §39.151 for the ERCOT Region; andC. The Parties enter into this Agreement in order to establish the terms and conditions by which ERCOT and Participant will discharge their respective duties and responsibilities under the ERCOT Protocols.AgreementsNOW, THEREFORE, in consideration of the mutual covenants and promises contained herein, ERCOT and Participant (the “Parties”) hereby agree as follows:Section 1. Notice. All notices required to be given under this Agreement shall be in writing, and shall be deemed delivered three (3) days after being deposited in the U.S. mail, first class postage prepaid, registered (or certified) mail, return receipt requested, addressed to the other Party at the address specified in this Agreement or shall be deemed delivered on the day of receipt if sent in another manner requiring a signed receipt, such as courier delivery or overnight delivery service. Either Party may change its address for such notices by delivering to the other Party a written notice referring specifically to this Agreement. Notices required under the ERCOT Protocols shall be in accordance with the applicable Section of the ERCOT Protocols.If to ERCOT:Electric Reliability Council of Texas, Inc.Attn: Legal Department8000 Metropolis Drive (Building E), Suite 100Austin, Texas 78744Telephone: (512) 225-7000Facsimile: (512) 225-7079If to Participant:[Participant Name][Contact Person/Dept.][Street Address][City, State Zip][Telephone][Facsimile]Section 2. Definitions. A. Unless herein defined, all definitions and acronyms found in the ERCOT Protocols shall be incorporated by reference into this Agreement. B. “ERCOT Protocols” shall mean the document adopted by ERCOT, including any attachments or exhibits referenced in that document, as amended from time to time, that contains the scheduling, operating, planning, reliability, and Settlement (including Customer registration) policies, rules, guidelines, procedures, standards, and criteria of ERCOT. For the purposes of determining responsibilities and rights at a given time, the ERCOT Protocols, as amended in accordance with the change procedure(s) described in the ERCOT Protocols, in effect at the time of the performance or non-performance of an action, shall govern with respect to that action.Section 3. Term and Termination.A. Term. The initial term ("Initial Term") of this Agreement shall commence on the Effective Date and continue until the last day of the month which is twelve (12) months from the Effective Date. After the Initial Term, this Agreement shall automatically renew for one-year terms (a "Renewal Term") unless the standard form of this Agreement contained in the ERCOT Protocols has been modified by a change to the ERCOT Protocols. If the standard form of this Agreement has been so modified, then this Agreement will terminate upon the effective date of the replacement agreement This Agreement may also be terminated during the Initial Term or the then-current Renewal Term in accordance with this Agreement.B. Termination by Participant. Participant may, at its option, terminate this Agreement: (1) Immediately upon the failure of ERCOT to continue to be certified by the PUCT as the Independent Organization under PURA §39.151 without the immediate certification of another Independent Organization under PURA §39.151;(2) If the “REC Account Holder” box is checked in Section A. of the *Recitals* section of this Agreement, Participant may, at its option, terminate this Agreement immediately if the PUCT ceases to certify ERCOT as the Entity approved by the PUCT (“Program Administrator”) for carrying out the administrative responsibilities related to the Renewable Energy Credit Program as set forth in PUC Substantive Rule 25.173(g) without the immediate certification of another Program Administrator under PURA §39.151; or(3) For any other reason at any time upon thirty days written notice to ERCOT.C. Effect of Termination and Survival of Terms. If this Agreement is terminated by a Party pursuant to the terms hereof, the rights and obligations of the Parties hereunder shall terminate, except that the rights and obligations of the Parties that have accrued under this Agreement prior to the date of termination shall survive. Section 4. Representations, Warranties, and Covenants.A. Participant represents, warrants, and covenants that: (1) Participant is duly organized, validly existing and in good standing under the laws of the jurisdiction under which it is organized and is authorized to do business in Texas;(2) Participant has full power and authority to enter into this Agreement and perform all obligations, representations, warranties and covenants under this Agreement;(3) Participant’s past, present and future agreements or Participant’s organizational charter or bylaws, if any, or any provision of any indenture, mortgage, lien, lease, agreement, order, judgment, or decree to which Participant is a party or by which its assets or properties are bound do not materially affect performance of Participant’s obligations under this Agreement;(4) Market Participant’s execution, delivery and performance of this Agreement by Participant have been duly authorized by all requisite action of its governing body;(5) Except as set out in an exhibit (if any) to this Agreement, ERCOT has not, within the twenty-four (24) months preceding the Effective Date, terminated for Default any Prior Agreement with Participant, any company of which Participant is a successor in interest, or any Affiliate of Participant; (6) If any Defaults are disclosed on any such exhibit mentioned in subsection 4(A)(5), either (a) ERCOT has been paid, before execution of this Agreement, all sums due to it in relation to such Prior Agreement, or (b) ERCOT, in its reasonable judgment, has determined that this Agreement is necessary for system reliability and Participant has made alternate arrangements satisfactory to ERCOT for the resolution of the Default under the Prior Agreement;(7) Participant has obtained, or will obtain prior to beginning performance under this Agreement, all licenses, registrations, certifications, permits and other authorizations and has taken, or will take prior to beginning performance under this Agreement, all actions required by applicable laws or governmental regulations except licenses, registrations, certifications, permits or other authorizations that do not materially affect performance under this Agreement; (8) Participant is not in violation of any laws, ordinances, or governmental rules, regulations or order of any Governmental Authority or arbitration board materially affecting performance of this Agreement and to which it is subject;(9) Participant is not Bankrupt, does not contemplate becoming Bankrupt nor, to its knowledge, will become Bankrupt; (10) Participant acknowledges that it has received and is familiar with the ERCOT Protocols; and(11) Participant acknowledges and affirms that the foregoing representations, warranties and covenants are continuing in nature throughout the term of this Agreement. For purposes of this Section, “materially affecting performance” means resulting in a materially adverse effect on Participant’s performance of its obligations under this Agreement.B. ERCOT represents, warrants and covenants that:(1) ERCOT is the Independent Organization certified under PURA §39.151 for the ERCOT Region;(2) ERCOT is duly organized, validly existing and in good standing under the laws of Texas, and is authorized to do business in Texas;(3) ERCOT has full power and authority to enter into this Agreement and perform all of ERCOT’s obligations, representations, warranties and covenants under this Agreement;(4) ERCOT's past, present and future agreements or ERCOT's organizational charter or bylaws, if any, or any provision of any indenture, mortgage, lien, lease, agreement, order, judgment, or decree to which ERCOT is a party or by which its assets or properties are bound do not materially affect performance of ERCOT's obligations under this Agreement;(5) The execution, delivery and performance of this Agreement by ERCOT have been duly authorized by all requisite action of its governing body;(6) ERCOT has obtained, or will obtain prior to beginning performance under this Agreement, all licenses, registrations, certifications, permits and other authorizations and has taken, or will take prior to beginning performance under this Agreement, all actions required by applicable laws or governmental regulations except licenses, registrations, certifications, permits or other authorizations that do not materially affect performance under this Agreement; (7) ERCOT is not in violation of any laws, ordinances, or governmental rules, regulations or order of any Governmental Authority or arbitration board materially affecting performance of this Agreement and to which it is subject;(8) ERCOT is not Bankrupt, does not contemplate becoming Bankrupt nor, to its knowledge, will become Bankrupt; and (9) ERCOT acknowledges and affirms that the foregoing representations, warranties, and covenants are continuing in nature throughout the term of this Agreement. For purposes of this Section, “materially affecting performance” means resulting in a materially adverse effect on ERCOT's performance of its obligations under this Agreement.Section 5. Participant Obligations.A. Participant shall comply with, and be bound by, all ERCOT Protocols.B. Participant shall not take any action, without first providing written notice to ERCOT and reasonable time for ERCOT and Market Participants to respond, that would cause a Market Participant within the ERCOT Region that is not a “public utility” under the Federal Power Act or ERCOT itself to become a “public utility” under the Federal Power Act or become subject to the plenary jurisdiction of the Federal Energy Regulatory Commission. Section 6. ERCOT Obligations.A. ERCOT shall comply with, and be bound by, all ERCOT Protocols.B. ERCOT shall not take any action, without first providing written notice to Participant and reasonable time for Participant and other Market Participants to respond, that would cause Participant, if Participant is not a “public utility” under the Federal Power Act, or ERCOT itself to become a “public utility” under the Federal Power Act or become subject to the plenary jurisdiction of the Federal Energy Regulatory Commission. If ERCOT receives any notice similar to that described in Section 5(B) from any Market Participant, ERCOT shall provide notice of same to Participant. Section 7. [RESERVED] Section 8. Default.  A. Event of Default. (1) Failure by Participant to (i) pay when due, any payment or Financial Security obligation owed to ERCOT or its designee, if applicable, under any agreement with ERCOT (“Payment Breach”), or (ii) designate/maintain an association with a QSE (if required by the ERCOT Protocols) (“QSE Affiliation Breach”), shall constitute a material breach and event of default ("Default") unless cured within one (1) Bank Business Day after ERCOT delivers written notice of the breach to Participant. Provided further that if such a material breach, regardless of whether the breaching Party cures the breach within the allotted time after notice of the material breach, occurs more than three (3) times in a 12-month period, the fourth such breach shall constitute a Default.(2) A material breach other than a Payment Breach or a QSE Affiliation Breach includes any material failure by Participant to comply with the ERCOT Protocols. A material breach under this subsection shall constitute an event of Default by Participant unless cured within fourteen (14) Business Days after delivery by ERCOT of written notice of the material breach to Participant. Participant must begin work or other efforts within three (3) Business Days to cure such material breach after delivery of the breach notice by ERCOT, and must prosecute such work or other efforts with reasonable diligence until the breach is cured. Provided further that if a material breach, regardless of whether such breach is cured within the allotted time after notice of the material breach, occurs more than three (3) times in a 12-month period, the fourth such breach shall constitute a Default. A material breach under this subsection shall not result in a Default if the breach cannot reasonably be cured within fourteen (14) Business Days, and Participant:(a) Promptly provides ERCOT with written notice of the reasons why the breach cannot reasonably be cured within fourteen (14) Business Days; (b) Begins to work or other efforts to cure the breach within three (3) Business Days after ERCOT’s delivery of the notice to Participant; and (c) Prosecutes the curative work or efforts with reasonable diligence until the curative work or efforts are completed.(3) Bankruptcy by Participant, except for the filing of a petition in involuntary bankruptcy or similar involuntary proceedings, that is dismissed within 90 days thereafter, shall constitute an event of Default.(4) Except as otherwise excused herein, a material breach of this Agreement by ERCOT, including any material failure by ERCOT to comply with the ERCOT Protocols, other than a Payment Breach, shall constitute a Default by ERCOT unless cured within fourteen (14) Business Days after delivery by Participant of written notice of the material breach to ERCOT. ERCOT must begin work or other efforts within three (3) Business Days to cure such material breach after delivery by Participant of written notice of such material breach by ERCOT and must prosecute such work or other efforts with reasonable diligence until the breach is cured. Provided further that if a material breach, regardless of whether such breach is cured within the allotted time after notice of the material breach, occurs more than three (3) times within a 12-month period, the fourth such breach shall constitute a Default.(5) If, due to a Force Majeure Event, a Party is in breach with respect to any obligation hereunder, such breach shall not result in a Default by that Party.B. Remedies for Default.(1) ERCOT's Remedies for Default. In the event of a Default by Participant, ERCOT may pursue any remedies ERCOT has under this Agreement, at law, or in equity, subject to the provisions of Section 10: Dispute Resolution of this Agreement. In the event of a Default by Participant, if the ERCOT Protocols do not specify a remedy for a particular Default, ERCOT may, at its option, upon written notice to Participant, immediately terminate this Agreement, with termination to be effective upon the date of delivery of notice. In the event of Participant’s bankruptcy, Participant waives any right to challenge ERCOT’s right to set off amounts ERCOT owes to Participant by the amount of any sums owed by Participant to ERCOT, including any amounts owed pursuant to the operation of the Protocols. (2) Participant's Remedies for Default.(a) Unless otherwise specified in this Agreement or in the ERCOT Protocols, and subject to the provisions of Section 10: Dispute Resolution of this Agreement in the event of a Default by ERCOT, Participant's remedies shall be limited to:(i) Immediate termination of this Agreement upon written notice to ERCOT;(ii) Monetary recovery in accordance with the Settlement procedures set forth in the ERCOT Protocols; and(iii) Specific performance.(b) However, in the event of a material breach by ERCOT of any of its representations, warranties or covenants, Participant's sole remedy shall be immediate termination of this Agreement upon written notice to ERCOT. (3) A Default or breach of this Agreement by a Party shall not relieve either Party of the obligation to comply with the ERCOT Protocols. C. Force Majeure.(1) If, due to a Force Majeure Event, either Party is in breach of this Agreement with respect to any obligation hereunder, such Party shall take reasonable steps, consistent with Good Utility Practice, to remedy such breach. If either Party is unable to fulfill any obligation by reason of a Force Majeure Event, it shall give notice and the full particulars of the obligations affected by such Force Majeure Event to the other Party in writing or by telephone (if followed by written notice) as soon as reasonably practicable, but not later than fourteen (14) calendar days, after such Party becomes aware of the event. A failure to give timely notice of the Force Majeure event shall constitute a waiver of the claim of Force Majeure Event. The Party experiencing the Force Majeure Event shall also provide notice, as soon as reasonably practicable, when the Force Majeure Event ends.(2) Notwithstanding the foregoing, a Force Majeure Event does not relieve a Party affected by a Force Majeure Event of its obligation to make payments or of any consequences of non-performance pursuant to the ERCOT Protocols or under this Agreement, except that the excuse from Default provided by subsection 8(A)(5) above is still effective. D. Duty to Mitigate. Except as expressly provided otherwise herein, each Party shall use commercially reasonable efforts to mitigate any damages it may incur as a result of the other Party's performance or non-performance of this Agreement.Section 9. Limitation of Damages and Liability and Indemnification.A. EXCEPT AS EXPRESSLY LIMITED IN THIS AGREEMENT OR THE ERCOT PROTOCOLS, ERCOT OR PARTICIPANT MAY SEEK FROM THE OTHER, THROUGH APPLICABLE DISPUTE RESOLUTION PROCEDURES SET FORTH IN THE ERCOT PROTOCOLS, ANY MONETARY DAMAGES OR OTHER REMEDY OTHERWISE ALLOWABLE UNDER TEXAS LAW, AS DAMAGES FOR DEFAULT OR BREACH OF THE OBLIGATIONS UNDER THIS AGREEMENT; PROVIDED, HOWEVER, THAT NEITHER PARTY IS LIABLE TO THE OTHER FOR ANY SPECIAL, INDIRECT, PUNITIVE OR CONSEQUENTIAL DAMAGES OR INJURY THAT MAY OCCUR, IN WHOLE OR IN PART, AS A RESULT OF A DEFAULT UNDER THIS AGREEMENT, A TORT, OR ANY OTHER CAUSE, WHETHER OR NOT A PARTY HAD KNOWLEDGE OF THE CIRCUMSTANCES THAT RESULTED IN THE SPECIAL, INDIRECT, PUNITIVE OR CONSEQUENTIAL DAMAGES OR INJURY, OR COULD HAVE FORESEEN THAT SUCH DAMAGES OR INJURY WOULD OCCUR.B. With respect to any dispute regarding a Default or breach by ERCOT of its obligations under this Agreement, ERCOT expressly waives any Limitation of Liability to which it may be entitled under the Charitable Immunity and Liability Act of 1987, Tex. Civ. Prac. & Rem. Code §84.006, or successor statute.C. The Parties have expressly agreed that, other than subsections A and B of this Section, this Agreement shall not include any other limitations of liability or indemnification provisions, and that such issues shall be governed solely by applicable law, in a manner consistent with the Choice of Law and Venue subsection of this Agreement, regardless of any contrary provisions that may be included in or subsequently added to the ERCOT Protocols (outside of this Agreement).D. The Independent Market Monitor (IMM), and its directors, officers, employees, and agents, shall not be liable to any person or Entity for any act or omission, other than an act or omission constituting gross negligence or intentional misconduct, including but not limited to liability for any financial loss, loss of economic advantage, opportunity cost, or actual, direct, indirect, or consequential damages of any kind resulting from or attributable to any such act or omission of the IMM, as long as such act or omission arose from or is related to matters within the scope of the IMM’s authority arising under or relating to PURA §39.1515 and PUC Subst. R. 25.365, Independent Market Monitor.Section 10. Dispute Resolution.A. In the event of a dispute, including a dispute regarding a Default, under this Agreement, Parties to this Agreement shall first attempt resolution of the dispute using the applicable dispute resolution procedures set forth in the ERCOT Protocols.B. In the event of a dispute, including a dispute regarding a Default, under this Agreement, each Party shall bear its own costs and fees, including, but not limited to attorneys' fees, court costs, and its share of any mediation or arbitration fees.Section 11. Miscellaneous.A. Choice of Law and Venue. Notwithstanding anything to the contrary in this Agreement, this Agreement shall be deemed entered into and performable solely in Texas and, with the exception of matters governed exclusively by federal law, shall be governed by and construed and interpreted in accordance with the laws of the State of Texas that apply to contracts executed in and performed entirely within the State of Texas, without reference to any rules of conflict of laws. Neither Party waives primary jurisdiction as a defense; provided that any court suits regarding this Agreement shall be brought in a state or federal court located within Travis County, Texas, and the Parties hereby waive any defense of forum non-conveniens, except defenses under Tex. Civ. Prac. & Rem. Code §15.002(b).B. Assignment.(1) Notwithstanding anything herein to the contrary, a Party shall not assign or otherwise transfer all or any of its rights or obligations under this Agreement without the prior written consent of the other Party, which shall not be unreasonably withheld or delayed, except that a Party may assign or transfer its rights and obligations under this Agreement without the prior written consent of the other Party (if neither the assigning Party or the assignee is then in Default of any Agreement with ERCOT):(a) Where any such assignment or transfer is to an Affiliate of the Party; or(b) Where any such assignment or transfer is to a successor to or transferee of the direct or indirect ownership or operation of all or part of the Party, or its facilities; or(c) For collateral security purposes to aid in providing financing for itself, provided that the assigning Party will require any secured party, trustee or mortgagee to notify the other Party of any such assignment. Any financing arrangement entered into by either Party pursuant to this Section will provide that prior to or upon the exercise of the secured party’s, trustee’s or mortgagee’s assignment rights pursuant to said arrangement, the secured creditor, the trustee or mortgagee will notify the other Party of the date and particulars of any such exercise of assignment right(s). If requested by the Party making any such collateral assignment to a Financing Person, the other Party shall execute and deliver a consent to such assignment containing customary provisions, including representations as to corporate authorization, enforceability of this Agreement and absence of known Defaults, notice of material breach pursuant to Section 8(A), notice of Default, and an opportunity for the Financing Person to cure a material breach pursuant to Section 8(A) prior to it becoming a Default.(2) An assigning Party shall provide prompt written notice of the assignment to the other Party. Any attempted assignment that violates this Section is void and ineffective. Any assignment under this Agreement shall not relieve either Party of its obligations under this Agreement, nor shall either Party’s obligations be enlarged, in whole or in part, by reason thereof. C. No Third Party Beneficiary. Except with respect to the rights of the Financing Persons in Section 11(B), (a) nothing in this Agreement nor any action taken hereunder shall be construed to create any duty, liability or standard of care to any third party, (b) no third party shall have any rights or interest, direct or indirect, in this Agreement or the services to be provided hereunder and (c) this Agreement is intended solely for the benefit of the Parties, and the Parties expressly disclaim any intent to create any rights in any third party as a third-party beneficiary to this Agreement or the services to be provided hereunder. Nothing in this Agreement shall create a contractual relationship between one Party and the customers of the other Party, nor shall it create a duty of any kind to such customers.D. No Waiver. Parties shall not be required to give notice to enforce strict adherence to all provisions of this Agreement. No breach or provision of this Agreement shall be deemed waived, modified or excused by a Party unless such waiver, modification or excuse is in writing and signed by an authorized officer of such Party. The failure by or delay of either Party in enforcing or exercising any of its rights under this Agreement shall (a) not be deemed a waiver, modification or excuse of such right or of any breach of the same or different provision of this Agreement, and (b) not prevent a subsequent enforcement or exercise of such right. Each Party shall be entitled to enforce the other Party’s covenants and promises contained herein, notwithstanding the existence of any claim or cause of action against the enforcing Party under this Agreement or otherwise.E. Headings. Titles and headings of paragraphs and sections within this Agreement are provided merely for convenience and shall not be used or relied upon in construing this Agreement or the Parties’ intentions with respect thereto.F. Severability. In the event that any of the provisions, or portions or applications thereof, of this Agreement is finally held to be unenforceable or invalid by any court of competent jurisdiction, that determination shall not affect the enforceability or validity of the remaining portions of this Agreement, and this Agreement shall continue in full force and effect as if it had been executed without the invalid provision; provided, however, if either Party determines, in its sole discretion, that there is a material change in this Agreement by reason thereof, the Parties shall promptly enter into negotiations to replace the unenforceable or invalid provision with a valid and enforceable provision. If the Parties are not able to reach an agreement as the result of such negotiations within fourteen (14) days, either Party shall have the right to terminate this Agreement on three (3) days written notice.G. Entire Agreement. Any exhibits attached to this Agreement are incorporated into this Agreement by reference and made a part of this Agreement as if repeated verbatim in this Agreement. This Agreement represents the Parties' final and mutual understanding with respect to its subject matter. It replaces and supersedes any prior agreements or understandings, whether written or oral. No representations, inducements, promises, or agreements, oral or otherwise, have been relied upon or made by any Party, or anyone on behalf of a Party, that are not fully expressed in this Agreement. An agreement, statement, or promise not contained in this Agreement is not valid or binding. H. Amendment. The standard form of this Agreement may only be modified through the procedure for modifying ERCOT Protocols described in the ERCOT Protocols. Any changes to the terms of the standard form of this Agreement shall not take effect until a new Agreement is executed between the Parties. I. ERCOT's Right to Audit Participant. Participant shall keep detailed records for a period of three years of all activities under this Agreement giving rise to any information, statement, charge, payment or computation delivered to ERCOT under the ERCOT Protocols. Such records shall be retained and shall be available for audit or examination by ERCOT as hereinafter provided. ERCOT has the right during Business Hours and upon reasonable written notice and for reasonable cause to examine the records of Participant as necessary to verify the accuracy of any such information, statement, charge, payment or computation made under this Agreement. If any such examination reveals any inaccuracy in any such information, statement, charge, payment or computation, the necessary adjustments in such information, statement, charge, payment, computation, or procedures used in supporting its ongoing accuracy will be promptly made. J. Participant's Right to Audit ERCOT. Participant's right to data and audit of ERCOT shall be as described in the ERCOT Protocols and shall not exceed the rights described in the ERCOT Protocols. K. Further Assurances. Each Party agrees that during the term of this Agreement it will take such actions, provide such documents, do such things and provide such further assurances as may reasonably be requested by the other Party to permit performance of this Agreement.L. Conflicts. This Agreement is subject to applicable federal, state, and local laws, ordinances, rules, regulations, orders of any Governmental Authority and tariffs. Nothing in this Agreement may be construed as a waiver of any right to question or contest any federal, state and local law, ordinance, rule, regulation, order of any Governmental Authority, or tariff. In the event of a conflict between this Agreement and an applicable federal, state, and local law, ordinance, rule, regulation, order of any Governmental Authority or tariff, the applicable federal, state, and local law, ordinance, rule, regulation, order of any Governmental Authority or tariff shall prevail, provided that Participant shall give notice to ERCOT of any such conflict affecting Participant. In the event of a conflict between the ERCOT Protocols and this Agreement, the provisions expressly set forth in this Agreement shall control.M. No Partnership. This Agreement may not be interpreted or construed to create an association, joint venture, or partnership between the Parties or to impose any partnership obligation or liability upon either Party. Neither Party has any right, power, or authority to enter any agreement or undertaking for, or act on behalf of, or to act as or be an agent or representative of, or to otherwise bind, the other Party.N. Construction. In this Agreement, the following rules of construction apply, unless expressly provided otherwise or unless the context clearly requires otherwise:(1) The singular includes the plural, and the plural includes the singular.(2) The present tense includes the future tense, and the future tense includes the present tense.(3) Words importing any gender include the other gender.(4) The word “shall” denotes a duty.(5) The word “must” denotes a condition precedent or subsequent.(6) The word “may” denotes a privilege or discretionary power.(7) The phrase “may not” denotes a prohibition.(8) References to statutes, tariffs, regulations or ERCOT Protocols include all provisions consolidating, amending, or replacing the statutes, tariffs, regulations or ERCOT Protocols referred to.(9) References to “writing” include printing, typing, lithography, and other means of reproducing words in a tangible visible form.(10) The words “including,” “includes,” and “include” are deemed to be followed by the words “without limitation.”(11) Any reference to a day, week, month or year is to a calendar day, week, month or year unless otherwise indicated.(12) References to articles, Sections (or subdivisions of Sections), exhibits, annexes or schedules are to this Agreement, unless expressly stated otherwise.(13) Unless expressly stated otherwise, references to agreements, ERCOT Protocols and other contractual instruments include all subsequent amendments and other modifications to the instruments, but only to the extent the amendments and other modifications are not prohibited by this Agreement.(14) References to persons or entities include their respective successors and permitted assigns and, for governmental entities, entities succeeding to their respective functions and capacities.(15) References to time are to Central Prevailing Time.O. Multiple Counterparts. This Agreement may be executed in two or more counterparts, each of which is deemed an original but all constitute one and the same instrument.SIGNED, ACCEPTED AND AGREED TO by each undersigned signatory who, by signature hereto, represents and warrants that he or she has full power and authority to execute this Agreement.Electric Reliability Council of Texas, Inc.:By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Title: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_***Participant:***By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Title: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Market Participant Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Market Participant DUNS: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |

**ERCOT Nodal Protocols**

**Section 22**

**Attachment B: Standard Form Reliability Must-Run Agreement**

**February 12, 2020**

Standard Form Reliability Must-Run Agreement

Between

Insert Participant

and

Electric Reliability Council of Texas, Inc.

This Reliability Must-Run Agreement (“Agreement”), effective as of \_\_\_\_\_\_\_\_\_\_\_ of \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_ (“Effective Date”), is entered into by and between Insert Participant, a [Insert State of Registration and Entity type] (“Participant”) and Electric Reliability Council of Texas, Inc., a Texas non-profit corporation (“ERCOT”).

Recitals

WHEREAS:

A. Participant is a Resource Entity as defined in the ERCOT Protocols, and Participant intends to supply Reliability Must-Run Service;

B. ERCOT is the Independent Organization certified under PURA §39.151 for the ERCOT Region; and

C. The Parties enter into this Agreement in order to establish the terms and conditions by which ERCOT and Participant will discharge their respective duties and responsibilities under the ERCOT Protocols.

Agreements

NOW, THEREFORE, in consideration of the mutual covenants and promises contained herein, ERCOT and Participant (the “Parties”) hereby agree as follows:

Section 1. Unit-Specific Terms.

A. Start Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_\_\_.

B. Stop Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, 20\_\_\_\_\_.

C. RMR Unit:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

D. Description of RMR Unit [*including location, name of Resource, etc.]:* \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

E. RMR Unit Information

(1) RMR Contracted Capacity and Target Availability:

|  |  |  |
| --- | --- | --- |
| Month - Year | Capacity (MW) | Target Availability (%) |
| Jan |  |  |
| Feb |  |  |
| Mar |  |  |
| Apr |  |  |
| May |  |  |
| Jun |  |  |
| Jul |  |  |
| Aug |  |  |
| Sep |  |  |
| Oct |  |  |
| Nov |  |  |
| Dec |  |  |

F. Delivery Point: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

G. Revenue Meter Location (Use Resource IDs): \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

H. Resource Category: \_\_\_\_\_\_\_\_\_\_

I. Fuel Adder ($/MMBtu): \_\_\_\_\_\_\_\_\_\_

J. Initial Standby Cost data for contract period:

a. Total budgeted cost without contributed capital expenditures ($): \_\_\_\_\_\_\_\_\_\_

b. Total budgeted contributed capital expenditures ($): \_\_\_\_\_\_\_\_\_\_

c. Total hours in contract period: \_\_\_\_\_\_\_\_\_\_

d. Initial Standby Cost ($/hour): [Total Cost (a) \* (1 + Incentive Factor) + Total contributed capital expenditures (b)] / Total Hours (c): \_\_\_\_\_\_\_\_\_\_

Standby Payments may be recalculated from time to time as defined in Section 3.14.1.12, Calculation of the Initial Standby Cost.

K. Primary Purpose of Service:

* + - Reliability
		- Capacity in accordance with Section 6.5.1.1, ERCOT Control Area Authority

L. Notice. All notices required to be given under this Agreement shall be in writing, and shall be deemed delivered three days after being deposited in the U.S. mail, first-class postage prepaid, registered (or certified) mail, return receipt requested, addressed to the other Party at the address specified in this Agreement or shall be deemed delivered on the day of receipt if sent in another manner requiring a signed receipt, such as courier delivery or Federal Express delivery. Either Party may change its address for such notices by delivering to the other Party a written notice referring specifically to this Agreement. Notices required under the ERCOT Protocols shall be in accordance with the applicable Section of the ERCOT Protocols.

**If to ERCOT**:

Electric Reliability Council of Texas, Inc.

8000 Metropolis Drive (Building E), Suite 100

Austin, Texas 78744

Tel No. (512) 225-7000

Attn: ERCOT Legal Department

If to Participant:

[Insert Participant Name]

[Insert Contact Person/Dept.]

[Insert Street Address]

[Insert City, State Zip]

[Insert Telephone]

[Insert Facsimile]

Section 2. Definitions.

A. Unless herein defined, all definitions and acronyms found in the ERCOT Protocols shall be incorporated by reference into this Agreement.

B. “ERCOT Protocols” shall mean the document adopted by ERCOT, including any attachments or exhibits referenced in that document, as amended from time to time, that contains the scheduling, operating, planning, reliability, and Settlement (including Customer registration) policies, rules, guidelines, procedures, standards, and criteria of ERCOT. For the purposes of determining prices, payments, and other economic rights of the Parties, the ERCOT Protocols in effect on the Effective Date govern this Agreement. For the purposes of determining all other responsibilities and rights at a given time, the ERCOT Protocols, as amended in accordance with the change procedure(s) described in the ERCOT Protocols, in effect at the time of the performance or non-performance of an action, shall govern with respect to that action.

Section 3. Term and Termination.

A. Term.

(1) This Agreement is effective beginning on the Effective Date.

(2) The “Term” of this Agreement begins at 0000 on the Start Date and ends at 2400 on the Stop Date. ERCOT, at its sole discretion, may terminate this Agreement before the end of the Term by giving 90 days’ advance written notice to the Participant.

(3) Any Term longer than one (1) year requires ERCOT Board approval.

B. Extension by ERCOT. ERCOT may, at its sole discretion, extend this Agreement for a period up to ninety (90) days, even if ERCOT has previously provided notice to Participant of future termination of the Agreement, by providing at least thirty (30) days advance written notice to Participant of the extension.

C. Termination by Participant. Participant may, at its option, immediately terminate this Agreement upon the failure of ERCOT to continue to be certified by the PUCT as the Independent Organization under PURA §39.151 without the immediate certification of another Independent Organization under PURA §39.151.

D. Termination by Mutual Agreement. This Agreement may be terminated upon written agreement of both parties at a time specified by such agreement; provided that Participant may still recover Eligible Costs (Standby Costs) and Incentive Factor payments already accrued prior to termination pursuant to this section.

E. Effect of Termination and Survival of Terms. If this Agreement is terminated by a Party pursuant to the terms hereof, the rights and obligations of the Parties hereunder shall terminate, except that the rights and obligations of the Parties that have accrued under this Agreement prior to the date of termination shall survive.

Section 4. Representations, Warranties, and Covenants.

A. Participant represents, warrants, and covenants that:

(1) Participant is duly organized, validly existing, and in good standing under the laws of the jurisdiction under which it is organized, and is authorized to do business in Texas;

(2) Participant has full power and authority to enter into this Agreement and perform all of Participant’s obligations, representations, warranties, and covenants under this Agreement;

(3) Participant’s past, present, and future agreements or Participant’s organizational charter or bylaws, if any, or any provision of any indenture, mortgage, lien, lease, agreement, order, judgment, or decree to which Participant is a party or by which its assets or properties are bound do not materially affect performance of Participant’s obligations under this Agreement;

(4) The execution, delivery, and performance of this Agreement by Participant have been duly authorized by all requisite action of its governing body;

(5) Except as set out in an exhibit (if any) to this Agreement, ERCOT has not, within the 24 months preceding the Effective Date, terminated for Default any Prior Agreement with Participant, any company of which Participant is a successor in interest, or any Affiliate of Participant;

(6) If any Defaults are disclosed on any such exhibit mentioned in subsection 4(A)(5), either (a) ERCOT has been paid, before execution of this Agreement, all sums due to it in relation to such Prior Agreement, or (b) ERCOT, in its reasonable judgment, has determined that this Agreement is necessary for system reliability, and Participant has made alternate arrangements satisfactory to ERCOT for the resolution of the Default under the Prior Agreement;

(7) Participant has obtained, or will obtain prior to beginning performance under this Agreement, all licenses, registrations, certifications, permits and other authorizations and has taken, or will take prior to beginning performance under this Agreement, all actions required by applicable laws or governmental regulations except licenses, registrations, certifications, permits or other authorizations that do not materially affect performance under this Agreement;

(8) Participant is not in violation of any laws, ordinances, or governmental rules, regulations or order of any Governmental Authority or arbitration board materially affecting performance of this Agreement and to which it is subject;

(9) Participant is not Bankrupt, does not contemplate becoming Bankrupt nor, to its knowledge, will become Bankrupt;

(10) Participant acknowledges that it has received and is familiar with the ERCOT Protocols; and

(11) Participant acknowledges and affirms that the foregoing representations, warranties, and covenants are continuing in nature throughout the Term of this Agreement. For purposes of this Section, “materially affecting performance” means resulting in a materially adverse effect on Participant’s performance of its obligations under this Agreement.

B. ERCOT represents, warrants, and covenants that:

(1) ERCOT is the Independent Organization certified under PURA §39.151 for the ERCOT Region;

(2) ERCOT is duly organized, validly existing, and in good standing under the laws of Texas, and is authorized to do business in Texas;

(3) ERCOT has full power and authority to enter into this Agreement and perform all of ERCOT’s obligations, representations, warranties, and covenants under this Agreement;

(4) ERCOT’s past, present, and future agreements or ERCOT’s organizational charter or bylaws, if any, or any provision of any indenture, mortgage, lien, lease, agreement, order, judgment, or decree to which ERCOT is a party or by which its assets or properties are bound do not materially affect performance of ERCOT’s obligations under this Agreement;

(5) The execution, delivery, and performance of this Agreement by ERCOT have been duly authorized by all requisite action of its governing body;

(6) ERCOT has obtained, or will obtain prior to beginning performance under this Agreement, all licenses, registrations, certifications, permits and other authorizations and has taken, or will take prior to beginning performance under this Agreement, all actions required by applicable laws or governmental regulations except licenses, registrations, certifications, permits or other authorizations that do not materially affect performance under this Agreement;

(7) ERCOT is not in violation of any laws, ordinances, or governmental rules, regulations or order of any Governmental Authority or arbitration board materially affecting performance of this Agreement and to which it is subject;

(8) ERCOT is not Bankrupt, does not contemplate becoming Bankrupt nor, to its knowledge, will become Bankrupt; and

(9) ERCOT acknowledges and affirms that the foregoing representations, warranties, and covenants are continuing in nature throughout the Term of this Agreement. For purposes of this Section, “materially affecting performance,” means resulting in a materially adverse effect on ERCOT’s performance of its obligations under this Agreement.

Section 5. Participant Obligations.

A. Participant shall comply with, and be bound by, all ERCOT Protocols as they pertain to provision of Reliability Must-Run Service by a Resource Entity.

B. All budget and actual cost information submitted to ERCOT in accordance with the Protocols, including costs for work that is expected to be performed by an Affiliate of the Resource Entity, must include only those costs that are necessary and reflective of fair-market value.

C. Participant shall not take any action, without first providing written notice to ERCOT and reasonable time for ERCOT and Market Participants to respond, that would cause a Market Participant within the ERCOT Region that is not a “public utility” under the Federal Power Act or ERCOT itself to become a “public utility” under the Federal Power Act or become subject to the plenary jurisdiction of the Federal Energy Regulatory Commission.

Section 6. ERCOT Obligations.

A. ERCOT shall comply with, and be bound by,all ERCOT Protocols.

B. ERCOT shall not take any action, without first providing written notice to Participant and reasonable time for Participant and other Market Participants to respond, that would cause Participant, if Participant is not a “public utility” under the Federal Power Act, or ERCOT itself to become a “public utility” under the Federal Power Act or become subject to the plenary jurisdiction of the Federal Energy Regulatory Commission. If ERCOT receives any notice similar to that described in Section 5(B) from any Market Participant, ERCOT shall provide notice of same to Participant.

Section 7. Capacity Tests for RMR Units.

A. Capacity Tests.

(1) A “Capacity Test” is a one-hour performance test of the RMR Unit by Participant. The capacity as shown by a Capacity Test is called “Tested Capacity” and is determined by the applicable net meter readings during the Capacity Test.

(2) ERCOT may require that a Capacity Test be run at ERCOT’s discretion at any time when the RMR Unit is on line, but ERCOT may not require more than four Capacity Tests in a contract Term. ERCOT must give Participant at least two (2) hours advance notice, after the RMR Unit is on line, of a Capacity Test required by ERCOT, unless Participant agrees to less than two (2) hours. Participant may perform as many Capacity Tests as it desires, but Participant may not perform a Capacity Test without the prior approval of ERCOT, which approval ERCOT may not unreasonably withhold or delay. The Parties will reasonably cooperate to coordinate a Capacity Test. ERCOT has the right to reasonable advance notice of, and to have personnel present during, a Capacity Test.

B. Test Report. ERCOT shall give the Capacity Test results in writing (the “Capacity Test Report”) to Participant within twenty-four (24) hours after the test is run.

C. Effect of Test.

(1) A determination of Tested Capacity is effective as of the beginning of the hour in which the Capacity Test is started. For all hours in which Tested Capacity is less than the RMR Capacity specified in Section 1(E)(1) above, then the Incentive Factor Percentage may be reduced as specified in the ERCOT Protocols applicable to RMR Service in effect on the Effective Date.

Section 8. Operation.

A. RMR Unit Maintenance. Before the start of each contract Term, Participant shall furnish ERCOT with its proposed schedule for Planned Outages for inspection, repair, maintenance, and overhaul of the RMR Unit for the contract Term. Participant will promptly advise ERCOT of any later changes to the schedule or estimated cost. The specific times for Planned Outages of the RMR Unit must be approved or rejected by ERCOT within thirty (30) days after submission by a Participant. Requested outages may be rejected only if necessary to assure reliability of the ERCOT System. ERCOT shall, if requested by Participant, endeavor to accommodate changes to the schedule to the extent that reliability of the ERCOT System is not materially affected by those changes. In all cases, ERCOT must find a time for Participant to perform maintenance in a reasonable timeframe.

B. Planning Data.

(1) Participant shall timely report to ERCOT those items and conditions necessary for ERCOT’s internal planning and compliance with ERCOT’s guidelines in effect from time to time. The information supplied must include, without limitation, the following:

(a) Current Operating Plan (COP) for each hour of the next Operating Day submitted by 0600 in the Day-Ahead;

(b) Revised COP reflecting changes in the hourly availability of the RMR Unit as soon as reasonably practical, but in no event later than 60 minutes after the event that caused the change; and

(c) Status of the RMR Unit with respect to environmental limitations, if any. If any of the specified environmental limitations will be exceeded by ERCOT’s planned or actual use of the RMR Unit Participant shall provide ERCOT with as much advance written notice as is reasonably possible.

(2) ERCOT and Participant shall timely coordinate with each other on the status of the RMR Unit with respect to Operational Limitations.

C. Delivery.

(1) ERCOT shall notify Participant, through a RUC instruction, of the hours, that the RMR Unit is to operate. ERCOT may not notify Participant to operate at levels above those stated in the COP.

(2) Participant shall produce and deliver electrical energy from the RMR Unit to the Delivery Point as dispatched by Security Constrained Economic Dispatch (SCED).

Section 9. Payment.

A. Payments for an RMR Unit. ERCOT shall pay Participant for the RMR Service provided under this Agreement as specified in the ERCOT Protocols applicable to RMR Service, as those ERCOT Protocols are in effect on the Effective Date.

B. Unexcused Misconduct Events.

(1) For an RMR Unit, a “Misconduct Event” means any hour or hours during which Participant is shown available in the COP, but fails to come On-Line for the hour or hours being RUC committed. Contiguous RUC deployments shall represent a single event in determining a “Misconduct Event”.

(2) Each day that a Misconduct Event continues after Participant receives written notice from ERCOT of the Misconduct Event is a separate Misconduct Event. Misconduct Events are measured on a daily basis.

(3) Participant is excused from the RMR Charge for Unexcused Misconduct for any Misconduct Event that is (a) not due to intentionally incomplete, inaccurate, or dishonest reporting to ERCOT by Participant of the availability of the Unit, or (b) caused by a failure of the ERCOT Transmission Grid.

(4) If a Misconduct Event is not excused, then to reflect this lower-than-expected quality of firmness, the Participant is subject to the RMR Charge for Unexcused Misconduct as specified in the ERCOT Protocols in effect on the Effective Date.

(5) ERCOT shall inform Participant in writing of its determination if a Misconduct Event is unexcused.

(6) ERCOT may offset any amounts due by Participant to ERCOT under this Section against any amounts due by ERCOT to Participant under this Agreement.

Section 10. Default.

A. Event of Default.

(1) Failure by Participant to (i) pay when due, any payment or Financial Security obligation owed to ERCOT or its designee, if applicable, under any agreement with ERCOT (“Payment Breach”), or (ii) designate/maintain an association with a QSE (if required by the ERCOT Protocols) (“QSE Affiliation Breach”), shall constitute a material breach and event of default (“Default”) unless cured within one (1) Bank Business Day after ERCOT delivers written notice of the breach to Participant. Provided further that if such a material breach, regardless of whether such breach is cured within the allotted time after notice of the material breach, occurs more than three (3) times within a rolling 12-month period, the fourth such breach shall constitute a Default.

(2) A material breach other than a Payment Breach or a QSE Affiliation Breach includes any material failure by Participant to comply with the ERCOT Protocols. A material breach under this subsection shall constitute an event of Default by Participant unless cured within fourteen (14) Business Days after delivery by ERCOT of written notice of the material breach to Participant.

Participant must begin work or other efforts within three (3) Business Days to cure such material breach after delivery of the breach notice by ERCOT, and must prosecute such work or other efforts with reasonable diligence until the breach is cured. Provided further that if a material breach, regardless of whether such breach is cured within the allotted time after notice of the material breach, occurs more than three (3) times within a 12-month period, the fourth such breach shall constitute a Default.

A material breach under this subsection shall not result in a Default if the breach cannot reasonably be cured within fourteen (14) Business Days, and Participant:

(a) Promptly provides ERCOT with written notice of the reasons why the breach cannot reasonably be cured within fourteen (14) Business Days;

(b) Begins to work or other efforts to cure the breach within three (3) Business Days after ERCOT’s delivery of the notice to Participant; and

(c) Prosecutes the curative work or efforts with reasonable diligence until the curative work or efforts are completed.

(3) The occurrence and continuation of any of the following events shall constitute an automatic Default by Participant:

(a) Participant becomes Bankrupt, except for the filing of a petition in involuntary bankruptcy, or similar involuntary proceedings, that is dismissed within 90 days thereafter;

(b) The RMR Unit’s operation is abandoned without intent to return it to operation during the Term;

(c) At any time, the Actual Availability is equal to or less than 50% of the Target Availability as specified in Table 1 Section 1 (E)(1) of this Agreement; or

(d) Three or more unexcused Misconduct Events occur during a contract Term.

(4) Except as otherwise herein, a material breach of this Agreement by ERCOT, including any material failure by ERCOT to comply with the ERCOT Protocols, other than a Payment Breach, shall constitute a Default by ERCOT unless cured within fourteen (14) Business Days after delivery by Participant of written notice of the material breach to ERCOT. ERCOT must begin work or other efforts within three (3) Business Days to cure such material breach after delivery by Participant of written notice of such material breach by ERCOT and must prosecute such work or other efforts with reasonable diligence until the breach is cured. Provided further that if a material breach, regardless of whether such breach is cured within the allotted time after notice of the material breach, occurs more than three (3) times within a 12-month period, the fourth such breach shall constitute a Default.

(5) If, due to a Force Majeure Event, a Party is in breach with respect to any obligation hereunder, such breach shall not result in a Default by that Party.

B. Remedies for Default.

(1) ERCOT’s Remedies for Default. In the event of a Default by Participant, ERCOT may pursue any remedies ERCOT has under this Agreement, at law, or in equity, subject to the provisions of Section 12: Dispute Resolution of this Agreement. In the event of a Default by Participant, if the ERCOT Protocols do not specify a remedy for a particular Default, ERCOT may, at its option, upon written notice to Participant, immediately terminate this Agreement, with termination to be effective upon the date of delivery of notice. In the event of Participant’s bankruptcy, Participant waives any right to challenge ERCOT’s right to set off amounts ERCOT owes to Participant by the amount of any sums owed by Participant to ERCOT, including any amounts owed pursuant to the operation of the Protocols.

(2) Participant’s Remedies for Default.

(a) Unless otherwise specified in this Agreement or in the ERCOT Protocols, and subject to the provisions of Section 12: Dispute Resolution of this Agreement, in the event of a Default by ERCOT, Participant’s remedies shall be limited to:

(i) Immediate termination of this Agreement upon written notice to ERCOT;

(ii) Monetary recovery in accordance with the Settlement procedures set forth in the ERCOT Protocols; and

(iii) Specific performance.

(b) However, in the event of a material breach by ERCOT of any of its representations, warranties or covenants, described in Section 4(B), Participant’s sole remedy shall be immediate termination of this Agreement upon written notice to ERCOT.

(3) A Default or breach of this Agreement by a Party shall not relieve either Party of the obligation to comply with the ERCOT Protocols.

C. Force Majeure.

(1) If, due to a Force Majeure Event, either Party is in breach of this Agreement with respect to any obligation hereunder, such Party shall take reasonable steps, consistent with Good Utility Practice, to remedy such breach. If either Party is unable to fulfill any obligation by reason of a Force Majeure Event, it shall give notice and the full particulars of the obligations affected by such Force Majeure Event to the other Party in writing or by telephone (if followed by written notice) as soon as reasonably practicable, but not later than fourteen (14) calendar days, after such Party becomes aware of the event. A failure to give timely notice of the Force Majeure Event shall constitute a waiver of the claim of Force Majeure Event. The Party experiencing the Force Majeure Event shall also provide notice, as soon as reasonably practicable, when the Force Majeure Event ends.

(2) Notwithstanding the foregoing, a Force Majeure Event does not relieve a Party affected by a Force Majeure Event of its obligation to make payments or of any consequences of non-performance pursuant to the ERCOT Protocols or under this Agreement, except that the excuse from Default provided by subsection 10(A)(5) above is still effective.

D. Duty to Mitigate. Except as expressly provided otherwise herein, each Party shall use commercially reasonable efforts to mitigate any damages it may incur as a result of the other Party’s performance or non-performance of this Agreement.

Section 11. Limitation of Damages and Liability and Indemnification.

A. EXCEPT AS EXPRESSLY LIMITED IN THIS AGREEMENT OR THE ERCOT PROTOCOLS, ERCOT OR PARTICIPANT MAY SEEK FROM THE OTHER, THROUGH APPLICABLE DISPUTE RESOLUTION PROCEDURES SET FORTH IN THE ERCOT PROTOCOLS, ANY MONETARY DAMAGES OR OTHER REMEDY OTHERWISE ALLOWABLE UNDER TEXAS LAW, AS DAMAGES FOR DEFAULT OR BREACH OF THE OBLIGATIONS UNDER THIS AGREEMENT; PROVIDED, HOWEVER, THAT Neither Party is liable to the other for any special, indirect, PUNITIVE, or consequential damages or injury that may occur, in whole or in part, as a result of A DEFAULT UNDER THIS AGREEMENT, a tort, or any other cause, whether or not a Party had knowledge of the circumstances that resulted in the special, indirect, PUNITIVE, or consequential damages OR INJURY, or could have foreseen that such damages OR INJURY would occur.

B. With respect to any dispute regarding a Default or breach by ERCOT of its obligations under this Agreement, ERCOT expressly waives any Limitation of Liability to which it may be entitled under the Charitable Immunity and Liability Act of 1987, Tex. Civ. Prac. & Rem. Code §84.006, or successor statute.

C. The Parties have expressly agreed that, other than subsections (A) and (B) of this Section, this Agreement shall not include any other limitations of liability or indemnification provisions, and that such issues shall be governed solely by applicable law, in a manner consistent with the Choice of Law and Venue subsection of this Agreement, regardless of any contrary provisions that may be included in or subsequently added to the ERCOT Protocols (outside of this Agreement).

Section 12. Dispute Resolution.

A. In the event of a dispute, including a dispute regarding a Default, under this Agreement, Parties to this Agreement shall first attempt resolution of the dispute using the applicable dispute resolution procedures set forth in the ERCOT Protocols.

B. In the event of a dispute, including a dispute regarding a Default, under this Agreement, each Party shall bear its own costs and fees, including, but not limited to attorneys’ fees, court costs, and its share of any mediation or arbitration fees.

Section 13. Miscellaneous.

A. Choice of Law and Venue. Notwithstanding anything to the contrary in this Agreement, this Agreement shall be deemed entered into and performable solely in Texas and, with the exception of matters governed exclusively by federal law, shall be governed by and construed and interpreted in accordance with the laws of the State of Texas that apply to contracts executed in and performed entirely within the State of Texas, without reference to any rules of conflict of laws. Neither Party waives primary jurisdiction as a defense; provided that any court suits regarding this Agreement shall be brought in a state or federal court located within Travis County, Texas, and the Parties hereby waive any defense of *forum non-conveniens*, except defenses under Tex. Civ. Prac. & Rem. Code §15.002(b).

B. Assignment.

(1) Notwithstanding anything herein to the contrary, a Party shall not assign or otherwise transfer all or any of its rights or obligations under this Agreement without the prior written consent of the other Party, which shall not be unreasonably withheld or delayed, except that a Party may assign or transfer its rights and obligations under this Agreement without the prior written consent of the other Party (if neither the assigning Party or the assignee is then in Default of any Agreement with ERCOT):

(a) Where any such assignment or transfer is to an Affiliate of the Party; or

(b) Where any such assignment or transfer is to a successor to or transferee of the direct or indirect ownership or operation of all or part of the Party, or its Facilities; or

(c) For collateral security purposes to aid in providing financing for itself, provided that the assigning Party will require any secured party, trustee or mortgagee to notify the other Party of any such assignment. Any financing arrangement entered into by either Party pursuant to this Section will provide that prior to or upon the exercise of the secured party’s, trustee’s or mortgagee’s assignment rights pursuant to said arrangement, the secured creditor, the trustee or mortgagee will notify the other Party of the date and particulars of any such exercise of assignment right(s). If requested by the Party making any such collateral assignment to a Financing Person, the other Party shall execute and deliver a consent to such assignment containing customary provisions, including representations as to corporate authorization, enforceability of this Agreement and absence of known Defaults, notice of material breach pursuant to Section 10(A), and an opportunity for the Financing Person to cure a material breach pursuant to Section 10(A) prior to it becoming a Default.

(2) An assigning Party shall provide prompt written notice of the assignment to the other Party. Any attempted assignment that violates this Section is void and ineffective. Any assignment under this Agreement shall not relieve either Party of its obligations under this Agreement, nor shall either Party’s obligations be enlarged, in whole or in part, by reason thereof.

C. No Third Party Beneficiary. Except with respect to the rights of the Financing Persons in Section 13(B)(1), (a) nothing in this Agreement nor any action taken hereunder shall be construed to create any duty, liability or standard of care to any third party, (b) no third party shall have any rights or interest, direct or indirect, in this Agreement or the services to be provided hereunder and (c) this Agreement is intended solely for the benefit of the Parties, and the Parties expressly disclaim any intent to create any rights in any third party as a third-party beneficiary to this Agreement or the services to be provided hereunder. Nothing in this Agreement shall create a contractual relationship between one Party and the customers of the other Party, nor shall it create a duty of any kind to such customers.

D. No Waiver. Parties shall not be required to give notice to enforce strict adherence to all provisions of this Agreement. No breach or provision of this Agreement shall be deemed waived, modified or excused by a Party unless such waiver, modification or excuse is in writing and signed by an authorized officer of such Party. The failure by or delay of either Party in enforcing or exercising any of its rights under this Agreement shall (a) not be deemed a waiver, modification or excuse of such right or of any breach of the same or different provision of this Agreement, and (b) not prevent a subsequent enforcement or exercise of such right. Each Party shall be entitled to enforce the other Party’s covenants and promises contained herein, notwithstanding the existence of any claim or cause of action against the enforcing Party under this Agreement or otherwise.

E. Headings. Titles and headings of paragraphs and sections within this Agreement are provided merely for convenience and shall not be used or relied upon in construing this Agreement or the Parties’ intentions with respect thereto.

F. Severability. In the event that any of the provisions, or portions or applications thereof, of this Agreement is finally held to be unenforceable or invalid by any court of competent jurisdiction, that determination shall not affect the enforceability or validity of the remaining portions of this Agreement, and this Agreement shall continue in full force and effect as if it had been executed without the invalid provision; provided, however, if either Party determines, in its sole discretion, that there is a material change in this Agreement by reason thereof, the Parties shall promptly enter into negotiations to replace the unenforceable or invalid provision with a valid and enforceable provision. If the Parties are not able to reach an agreement as the result of such negotiations within fourteen (14) days, either Party shall have the right to terminate this Agreement on three (3) days written notice.

G. Entire Agreement. Any exhibits attached to this Agreement are incorporated into this Agreement by reference and made a part of this Agreement as if repeated verbatim in this Agreement. This Agreement represents the Parties’ final and mutual understanding with respect to its subject matter. It replaces and supersedes any Prior Agreements or understandings, whether written or oral. No representations, inducements, promises, or agreements, oral or otherwise, have been relied upon or made by any Party, or anyone on behalf of a Party, that are not fully expressed in this Agreement. An agreement, statement, or promise not contained in this Agreement is not valid or binding.

H. Amendment. The standard form of this Agreement may only be modified through the procedure for modifying ERCOT Protocols described in the ERCOT Protocols. Any changes to the terms of the standard form of this Agreement shall not take effect until a new Agreement is executed between the Parties.

I. ERCOT’s Right to Audit Participant. Participant shall keep detailed records for a period of three years of all activities under this Agreement giving rise to any information, statement, charge, payment, or computation delivered to ERCOT under the ERCOT Protocols. Such records shall be retained and shall be available for audit or examination by ERCOT as hereinafter provided. ERCOT has the right during Business Hours and upon reasonable written notice and for reasonable cause to examine the records of Participant as necessary to verify the accuracy of any such information, statement, charge, payment, or computation made under this Agreement. If any such examination reveals any inaccuracy in any such information, statement, charge, payment or computation, the necessary adjustments in such information, statement, charge, payment, computation, or procedures used in supporting its ongoing accuracy will be promptly made.

J. Participant’s Right to Audit ERCOT. Participant’s right to data and audit of ERCOT shall be as described in the ERCOT Protocols and shall not exceed the rights described in the ERCOT Protocols.

K. Further Assurances. Each Party agrees that during the Term of this Agreement it will take such actions, provide such documents, do such things, and provide such further assurances as may reasonably be requested by the other Party to permit performance of this Agreement.

L. Conflicts. This Agreement is subject to applicable federal, state, and local laws, ordinances, rules, regulations, orders of any Governmental Authority, and tariffs. Nothing in this Agreement may be construed as a waiver of any right to question or contest any federal, state and local law, ordinance, rule, regulation, order of any Governmental Authority, or tariff. In the event of a conflict between this Agreement and an applicable federal, state, and local law, ordinance, rule, regulation, order of any Governmental Authority or tariff, the applicable federal, state, and local law, ordinance, rule, regulation, order of any Governmental Authority or tariff shall prevail, provided that Participant shall give notice to ERCOT of any such conflict affecting Participant. In the event of a conflict between the ERCOT Protocols and this Agreement, the provisions expressly set forth in this Agreement shall control.

M. No Partnership. This Agreement may not be interpreted or construed to create an association, joint venture, or partnership between the Parties or to impose any partnership obligation or liability upon either Party. Neither Party has any right, power, or authority to enter any agreement or undertaking for, or act on behalf of, or to act as or be an agent or representative of, or to otherwise bind, the other Party.

N. Construction. In this Agreement, the following rules of construction apply, unless expressly provided otherwise or unless the context clearly requires otherwise:

(1) The singular includes the plural, and the plural includes the singular.

(2) The present tense includes the future tense, and the future tense includes the present tense.

(3) Words importing any gender include the other gender.

(4) The word “shall” denotes a duty.

(5) The word “must” denotes a condition precedent or subsequent.

(6) The word “may” denotes a privilege or discretionary power.

(7) The phrase “may not” denotes a prohibition.

(8) References to statutes, tariffs, regulations or ERCOT Protocols include all provisions consolidating, amending, or replacing the statutes, tariffs, regulations or ERCOT Protocols referred to.

(9) References to “writing” include printing, typing, lithography, and other means of reproducing words in a tangible visible form.

(10) The words “including,” “includes,” and “include” are deemed to be followed by the words “without limitation.”

(11) Any reference to a day, week, month or year is to a calendar day, week, month, or year unless otherwise indicated.

(12) References to articles, Sections (or subdivisions of Sections), exhibits, annexes, or schedules are to this Agreement, unless expressly stated otherwise.

(13) Unless expressly stated otherwise, references to agreements, ERCOT Protocols and other contractual instruments include all subsequent amendments and other modifications to the instruments, but only to the extent the amendments and other modifications are not prohibited by this Agreement.

(14) References to persons or entities include their respective successors and permitted assigns and, for governmental entities, entities succeeding to their respective functions and capacities.

(15) References to time are to Central Prevailing Time.

O. Multiple Counterparts. This Agreement may be executed in two or more counterparts, each of which is deemed an original but all constitute one and the same instrument.

SIGNED, ACCEPTED, AND AGREED TO by each undersigned signatory who, by signature hereto, represents and warrants that he or she has full power and authority to execute this Agreement.

***Electric Reliability Council of Texas, Inc.:***

By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Title: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

***Participant:***

By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name:

Title:

Date:

Market Participant Name:

Market Participant DUNS:

**ERCOT Nodal Protocols**

**Section 22**

**Attachment D: Standard Form Black Start Agreement**

**November 1, 2019**

Standard Form Black Start Agreement

Between

Insert Participant

and

Electric Reliability Council of Texas, Inc.

 This Black Start Agreement (“Agreement”), effective as of \_\_\_\_\_\_\_\_\_ of \_\_\_\_\_\_\_\_\_\_\_\_\_, \_\_\_\_\_\_\_\_\_\_\_ (“Effective Date”), is entered into by and between Insert Participant, a [Insert State of Registration and Entity type] (“Participant”) and Electric Reliability Council of Texas, Inc., a Texas non-profit corporation (“ERCOT”).

Recitals

WHEREAS:

A. Participant is a Resource Entity as defined in the ERCOT Protocols, and Participant intends to provide Black Start Service (BSS);

B. ERCOT is the Independent Organization certified under the Public Utility Regulatory Act, Tex. Util. Code Ann. § 39.151 (Vernon 1998 & Supp. 2007) (PURA) for the ERCOT Region; and

C. The Parties enter into this Agreement in order to establish the terms and conditions by which ERCOT and Participant will discharge their respective duties and responsibilities under the ERCOT Protocols.

Agreements

NOW, THEREFORE, in consideration of the mutual covenants and promises contained herein, ERCOT and Participant (the “Parties”) hereby agree as follows:

Section 1. Resource-Specific Terms.

A. Start Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_.

B. Black Start Resource.

(1) Description of Black Start Resource [including location, number of generators, metering scheme, etc.]:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_, as described in more detail on Exhibit 1.

(2) Nameplate Capacity in MW: \_\_\_\_\_

(3) Delivery Point: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(4) Revenue Meter Location (use Resource IDs): \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

C. Price:

Hourly Standby Price: $\_\_\_\_\_\_\_\_ per hour

D. Notice. All notices required to be given under this Agreement shall be in writing, and shall be deemed delivered three days after being deposited in the U.S. mail, first class postage prepaid, registered (or certified) mail, return receipt requested, addressed to the other Party at the address specified in this Agreement or shall be deemed delivered on the day of receipt if sent in another manner requiring a signed receipt, such as courier delivery or Federal Express delivery. Either Party may change its address for such notices by delivering to the other Party a written notice referring specifically to this Agreement. Notices required under the ERCOT Protocols shall be in accordance with the applicable Section of the ERCOT Protocols.

If to ERCOT:

Electric Reliability Council of Texas, Inc.

8000 Metropolis Drive (Building E), Suite 100

Austin, Texas 78744

Tel No. (512) 225-7000

If to Participant:

[Insert Participant Name]

[Insert Contact Person/Dept.]

[Insert Street Address]

[Insert City, State Zip]

[Insert Telephone]

[Insert Facsimile]

Section 2. Definitions.

A. Unless herein defined, all definitions and acronyms found in the ERCOT Protocols shall be incorporated by reference into this Agreement.

B. “ERCOT Protocols” shall mean the document adopted by ERCOT, including any attachments or exhibits referenced in that document, as amended from time to time, that contains the scheduling, operating, planning, reliability, and Settlement (including Customer registration) policies, rules, guidelines, procedures, standards, and criteria of ERCOT. For the purposes of determining responsibilities and rights at a given time, the ERCOT Protocols, as amended in accordance with the change procedure(s) described in the ERCOT Protocols, in effect at the time of the performance or non-performance of an action, shall govern with respect to that action.

Section 3. Term and Termination.

A. Term.

(1) This Agreement is effective beginning on the Effective Date.

(2) The full term (“Full Term”) of this Agreement begins on the Start Date and continues for a period of two years.

B. Termination by Participant. Participant may, at its option, terminate this Agreement immediately upon the failure of ERCOT to continue to be certified by the Public Utility Commission of Texas (PUCT) as the Independent Organization under PURA §39.151 without the immediate certification of another Independent Organization under PURA §39.151.

C. Effect of Termination and Survival of Terms. If this Agreement is terminated by a Party pursuant to the terms hereof, the rights and obligations of the Parties hereunder shall terminate, except that the rights and obligations of the Parties that have accrued under this Agreement prior to the date of termination shall survive.

Section 4. Representations, Warranties, and Covenants.

A. Participant represents, warrants, and covenants that:

(1) Participant is duly organized, validly existing, and in good standing under the laws of the jurisdiction under which it is organized, and is authorized to do business in Texas;

(2) Participant has full power and authority to enter into this Agreement and perform all of Participant’s obligations, representations, warranties, and covenants under this Agreement;

(3) Participant’s past, present, and future agreements or Participant’s organizational charter or bylaws, if any, or any provision of any indenture, mortgage, lien, lease, agreement, order, judgment, or decree to which Participant is a party or by which its assets or properties are bound do not materially affect performance of Participant’s obligations under this Agreement;

(4) The execution, delivery, and performance of this Agreement by Participant have been duly authorized by all requisite action of its governing body;

(5) Except as set out in an exhibit (if any) to this Agreement, ERCOT has not, within the 24 months preceding the Effective Date, terminated for Default any Prior Agreement with Participant, any company of which Participant is a successor in interest, or any Affiliate of Participant;

(6) If any Defaults are disclosed on any such exhibit mentioned in subsection 4(A)(5), either (a) ERCOT has been paid, before execution of this Agreement, all sums due to it in relation to such Prior Agreement, or (b) ERCOT, in its reasonable judgment, has determined that this Agreement is necessary for system reliability, and Participant has made alternate arrangements satisfactory to ERCOT for the resolution of the Default under the Prior Agreement;

(7) Participant has obtained, or will obtain prior to beginning performance under this Agreement, all licenses, registrations, certifications, permits, and other authorizations and has taken, or will take prior to beginning performance under this Agreement, all actions required by applicable laws or governmental regulations except licenses, registrations, certifications, permits or other authorizations that do not materially affect performance under this Agreement;

(8) Participant is not in violation of any laws, ordinances, or governmental rules, regulations, or order of any Governmental Authority or arbitration board materially affecting performance of this Agreement and to which it is subject;

(9) Participant is not Bankrupt, does not contemplate becoming Bankrupt nor, to its knowledge, will become Bankrupt;

(10) Participant acknowledges that it has received and is familiar with the ERCOT Protocols; and

(11) Participant acknowledges and affirms that the foregoing representations, warranties, and covenants are continuing in nature throughout the term of this Agreement. For purposes of this Section, “materially affecting performance” means resulting in a materially adverse effect on Participant’s performance of its obligations under this Agreement.

B. ERCOT represents, warrants, and covenants that:

(1) ERCOT is the Independent Organization certified under PURA §39.151 for the ERCOT Region;

(2) ERCOT is duly organized, validly existing, and in good standing under the laws of Texas, and is authorized to do business in Texas;

(3) ERCOT has full power and authority to enter into this Agreement and perform all of ERCOT’s obligations, representations, warranties and covenants under this Agreement;

(4) ERCOT’s past, present and future agreements or ERCOT’s organizational charter or bylaws, if any, or any provision of any indenture, mortgage, lien, lease, agreement, order, judgment, or decree to which ERCOT is a party or by which its assets or properties are bound do not materially affect performance of ERCOT’s obligations under this Agreement;

(5) The execution, delivery, and performance of this Agreement by ERCOT have been duly authorized by all requisite action of its governing body;

(6) ERCOT has obtained, or will obtain prior to beginning performance under this Agreement, all licenses, registrations, certifications, permits and other authorizations and has taken, or will take prior to beginning performance under this Agreement, all actions required by applicable laws or governmental regulations except licenses, registrations, certifications, permits or other authorizations that do not materially affect performance under this Agreement;

(7) ERCOT is not in violation of any laws, ordinances, or governmental rules, regulations or order of any Governmental Authority or arbitration board materially affecting performance of this Agreement and to which it is subject;

(8) ERCOT is not Bankrupt, does not contemplate becoming Bankrupt nor, to its knowledge, will become Bankrupt; and

(9) ERCOT acknowledges and affirms that the foregoing representations, warranties, and covenants are continuing in nature throughout the term of this Agreement. For purposes of this Section, “materially affecting performance” means resulting in a materially adverse effect on ERCOT’s performance of its obligations under this Agreement.

Section 5. Participant Obligations.

A. Participant shall comply with, and be bound by, all ERCOT Protocols, ERCOT Operating Guides, and the North American Electric Reliability Corporation (NERC) Reliability Standards as they pertain to operation of a Black Start Resource by a Resource Entity.

B. Participant shall not take any action, without first providing written notice to ERCOT and reasonable time for ERCOT and Market Participants to respond, that would cause a Market Participant within the ERCOT Region that is not a “public utility” under the Federal Power Act, 16 U.S.C. § 824(e)(2005), or ERCOT itself to become a “public utility” under the Federal Power Act or become subject to the plenary jurisdiction of the Federal Energy Regulatory Commission (FERC).

Section 6. ERCOT Obligations.

A. ERCOT shall comply with, and be bound by, all ERCOT Protocols.

B. ERCOT shall not take any action, without first providing written notice to Participant and reasonable time for Participant and other Market Participants to respond, that would cause Participant if Participant is not a “public utility” under the Federal Power Act, or ERCOT itself to become a “public utility” under the Federal Power Act or become subject to the plenary jurisdiction of the FERC. If ERCOT receives any notice similar to that described in Section 5(B) from any Market Participant, ERCOT shall provide notice of same to Participant.

Section 7. Black Start Decertification.

If a Black Start Resource does not remain certified, or if it is in default as described in Section 10(A)(2)(e) during the term of this Agreement, then the Hourly Standby Fee is reduced to zero for the remainder of the Full Term, and Participant will be required to refund to ERCOT certain amounts paid by ERCOT under this Agreement during the Full Term as described in the ERCOT Protocols.

Section 8. Operation.

A. Black Start Resource Maintenance. Before the start of the contract year, Participant shall furnish ERCOT with its proposed schedule for Planned Outages for inspection, repair, maintenance, and overhaul of the Black Start Resource for the contract year. Participant will promptly advise ERCOT of any later changes to the schedule. The specific times for Planned Outages of the Black Start Resource must be approved by ERCOT. Such approval may be withheld if necessary to assure reliability of the ERCOT System. ERCOT shall, if requested by Participant, endeavor to accommodate changes to the schedule to the extent that reliability of the ERCOT System is not materially affected by those changes. In all cases, ERCOT must find a time for Participant to perform maintenance in a reasonable timeframe as defined by Good Utility Practice.

B. Planning Data.

Participant shall timely report to ERCOT those items and conditions necessary for ERCOT’s internal planning and compliance with ERCOT’s guidelines in effect from time to time. The information supplied must include, without limitation, the following:

(1) Availability Plan for each hour of the next Operating Day submitted by 0600 of the preceding day; and

(2) Revised Availability Plan reflecting changes in hourly availability of Black Start Capacity status as indicated in a revised Availability Plan as soon as reasonably practical, but in no event later than 60 minutes after the event that caused the change.

C. Testing.

 Participant shall perform quarterly Black Start Resource Availability Tests as described in these Protocols.

D. Delivery.

(1) ERCOT will make every effort to notify the Participant, through its Qualified Scheduling Entity (QSE) or Transmission Service Provider (TSP), when the Black Start Resource must black start. It is, however the responsibility of the Participant to initiate the start-up process of Black Start Resources in preparation for system restoration.

(2) If the ERCOT Transmission Grid at the Black Start Resource becomes deenergized and if Participant cannot communicate with either ERCOT or the Transmission Service Provider (TSP) and/or Distribution Service Provider (DSP) serving the Black Start Resource, then Participant shall follow the procedures specified for the Black Start Resource under ERCOT’s Black Start plan in the Operating Guides, but Participant shall not commence delivering electric energy into the ERCOT System without specific instructions to do so from either ERCOT or the TSP and/or DSP serving the Black Start Resource.

Section 9. Payment.

A. Hourly Standby Fee Payments. ERCOT shall pay Participant the Hourly Standby Fee as described below, except as specified otherwise in Section 7 above.

(1) Availability

(a) “Available” means, with respect to a given hour, that Participant has declared, in its Availability Plan, that the Black Start Resource is able to start without a connection to the ERCOT Transmission Grid.

(b) The Black Start Resource is not Available if:

(i) The Black Start Resource utilizes a power pool outside of ERCOT to start and the transmission path(s) between the Resource and the other power pool is not available due to an outage; or

(ii) The Black Start Resource utilizes a power pool outside of ERCOT to start but fails to maintain a firm standby supply contract for that power pool; or

(iii) The Black Start Resource has failed a Black Start Resource Availability Test, as described in the ERCOT Protocols or Operating Guides and has not passed a subsequent Black Start Resource Availability Test; or

(iv) The Black Start Resource has failed to start when required under this Agreement, and has not passed a subsequent Black Start Resource Availability Test; or

(v) The Black Start Resource failed to perform when issued a Dispatch Instruction to come On-Line any time other than for BSS and has not passed a subsequent Black Start Resource Availability Test.

(c) ERCOT shall use the Black Start Resource’s Availability Plan as the source of Black Start Resource availability information.

(2) “Black Start Service Hourly Rolling Equivalent Availability Factor (BSSHREAF)” means, with respect to a given hour, the quotient (expressed as a percentage) of (a) the number of hours, including the given hour and the immediately preceding 4,379 hours, in which the Black Start Resource was Available, divided by (b) 4,380; provided that, to the extent that 4,379 hours have not elapsed since the Start Date (the difference between 4,379 and the hours that have elapsed being referred to herein as the “Assumed Hours”), the Black Start Resource shall be deemed, for purposes of this calculation, to be Available for the Assumed Hour unless the Black Start Resource has failed to perform in response to a blackout event or when a Dispatch Instruction to come On-Line has been issued. Participant’s failure to perform shall be subject to possible claw-back of its Hourly Standby Fee and reduced payment during the Assumed Hours period. A Force Majeure Event is treated the same as any other cause for unavailability for the purposes of calculating BSSHREAF.

(3) “Hourly Standby Fee” means, with respect to a given hour, the result determined from the following table:

|  |  |
| --- | --- |
| Black Start Service Hourly Rolling Availability Factor (BSSHREAF) | Hourly Standby Fee |
| If BSSHREAF is more than or equal to 85% | Hourly Standby Price ($) |
| If BSSHREAF is less than 85% but more than 35% | Hourly Standby Price \* [100%-(85%-BSSHREAF) \* 2] ($) |
| If BSSHREAF is equal to or less than 35% | Zero |

Section 10. Default.

A. Event of Default.

(1) Failure by Participant to (i) pay when due, any payment or Financial Security obligation owed to ERCOT or its designee, if applicable, under any agreement with ERCOT (“Payment Breach”), or (ii) designate/maintain an association with a QSE (if required by the ERCOT Protocols) (“QSE Affiliation Breach”), shall constitute a material breach and event of default ("Default") unless cured within one (1) Business Day after ERCOT delivers written notice of the breach to Participant. Provided further that if such a material breach, regardless of whether such breach is cured within the allotted time after notice of the material breach, occurs more than three times within a rolling 12-month period, the fourth such breach shall constitute a Default.

(2) A material breach other than a Payment Breach or a QSE Affiliation Breach includes any material failure by Participant to comply with the ERCOT Protocols. A material breach under this subsection shall constitute an event of Default by Participant unless cured within fourteen (14) Business Days after delivery by ERCOT of written notice of the material breach to Participant.

Participant must begin work or other efforts within three (3) Business Days to cure such material breach after delivery of the breach notice by ERCOT, and must prosecute such work or other efforts with reasonable diligence until the breach is cured. Provided further that if a material breach, regardless of whether such breach is cured within the allotted time after notice of the material breach, occurs more than three (3) times within a 12-month period, the fourth such breach shall constitute a Default.

A material breach under this subsection shall not result in a Default if the breach cannot reasonably be cured within fourteen (14) Business Days, and Participant:

(a) Promptly provides ERCOT with written notice of the reasons why the breach cannot reasonably be cured within fourteen (14) Business Days;

(b) Begins to work or other efforts to cure the breach within three (3) Business Days after ERCOT’s delivery of the notice to Participant; and

(c) Prosecutes the curative work or efforts with reasonable diligence until the curative work or efforts are completed.

(3) The occurrence and continuation of any of the following events shall constitute an automatic Default by Participant:

(a) Participant becomes Bankrupt, except for the filing of a petition in involuntary bankruptcy, or similar involuntary proceeding, that is dismissed within 90 days thereafter;

(b) The Black Start Resource’s operation is abandoned without an intent to return it to operation during the Full Term;

(c) At any time, the Black Start Service Hourly Rolling Equivalent Availability Factor (BSSHREAF) is equal to or less than 50%; or

(d) An Available Black Start Resource fails to perform successfully as required during a Partial Blackout or Blackout.

(4) Except as otherwise excused herein, a material breach of this Agreement by ERCOT, including any material failure by ERCOT to comply with the ERCOT Protocols, other than a Payment Breach, shall constitute a Default by ERCOT unless cured within fourteen (14) Business Days after delivery by Participant of written notice of the material breach to ERCOT. ERCOT must begin work or other efforts within three (3) Business Days to cure such material breach after delivery by Participant of written notice of such material breach by ERCOT and must prosecute such work or other efforts with reasonable diligence until the breach is cured. Provided further that if a material breach, regardless of whether such breach is cured within the allotted time after notice of the material breach, occurs more than three (3) times within a 12-month period, the fourth such breach shall constitute a Default.

(5) If, due to a Force Majeure Event, a Party is in breach with respect to any obligation hereunder, such breach shall not result in a Default by that Party.

(6) Notwithstanding anything to the contrary, if Participant uses a Switchable Generation Resource (SWGR) as the Black Start Resource, the requirements or instructions of another Control Area Operator shall not constitute a Force Majeure Event or otherwise excuse the Participant from providing BSS or performing its obligations under this Agreement.

B. Remedies for Default.

(1) ERCOT’s Remedies for Default. In the event of a Default by Participant, ERCOT may pursue any remedies ERCOT has under this Agreement, at law, or in equity, subject to the provisions of Section 12, Dispute Resolution, of this Agreement. In the event of a Default by Participant, if the ERCOT Protocols do not specify a remedy for a particular Default, ERCOT may, at its option, upon written notice to Participant, immediately terminate this Agreement, with termination to be effective upon the date of delivery of notice. In the event of Participant’s bankruptcy, Participant waives any right to challenge ERCOT’s right to set-off amounts ERCOT owes to Participant by the amount of any sums owed by Participant to ERCOT, including any amounts owed pursuant to the operation of the Protocols.

(2) Participant’s Remedies for Default.

(a) Unless otherwise specified in this Agreement or in the ERCOT Protocols, and subject to the provisions of Section 12, Dispute Resolution, of this Agreement, in the event of a Default by ERCOT, Participant’s remedies shall be limited to:

(i) Immediate termination of this Agreement upon written notice to ERCOT;

(ii) Monetary recovery in accordance with the Settlement procedures set forth in the ERCOT Protocols; and

(iii) Specific performance.

(b) However, in the event of a material breach by ERCOT of any of its representations, warranties or covenants, Participant’s sole remedy shall be immediate termination of this Agreement upon written notice to ERCOT.

(3) A Default or breach of this Agreement by a Party shall not relieve either Party of the obligation to comply with the ERCOT Protocols.

C. Force Majeure.

(1) If, due to a Force Majeure Event, either Party is in breach of this Agreement with respect to any obligation hereunder, such Party shall take reasonable steps, consistent with Good Utility Practice, to remedy such breach. If either Party is unable to fulfill any obligation by reason of a Force Majeure Event, it shall give notice and the full particulars of the obligations affected by such Force Majeure Event to the other Party in writing or by telephone (if followed by written notice) as soon as reasonably practicable, but not later than fourteen (14) calendar days, after such Party becomes aware of the event. A failure to give timely notice of the Force Majeure event shall constitute a waiver of the claim of Force Majeure Event. The Party experiencing the Force Majeure Event shall also provide notice, as soon as reasonably practicable, when the Force Majeure Event ends.

(2) Notwithstanding the foregoing, a Force Majeure Event does not relieve a Party affected by a Force Majeure Event of its obligation to make payments or of any consequences of non-performance pursuant to the ERCOT Protocols or under this Agreement, except that the excuse from Default provided by subsection 10(A)(5) above is still effective.

D. Duty to Mitigate. Except as expressly provided otherwise herein, each Party shall use commercially reasonable efforts to mitigate any damages it may incur as a result of the other Party’s performance or non-performance of this Agreement.

Section 11. Limitation of Damages and Liability and Indemnification.

A. EXCEPT AS EXPRESSLY LIMITED IN THIS AGREEMENT OR THE ERCOT PROTOCOLS, ERCOT OR PARTICIPANT MAY SEEK FROM THE OTHER, THROUGH APPLICABLE DISPUTE RESOLUTION PROCEDURES SET FORTH IN THE ERCOT PROTOCOLS, ANY MONETARY DAMAGES OR OTHER REMEDY OTHERWISE ALLOWABLE UNDER TEXAS LAW, AS DAMAGES FOR DEFAULT OR BREACH OF THE OBLIGATIONS UNDER THIS AGREEMENT; PROVIDED, HOWEVER, THAT NEITHER PARTY IS LIABLE TO THE OTHER FOR ANY SPECIAL, INDIRECT, PUNITIVE OR CONSEQUENTIAL DAMAGES OR INJURY THAT MAY OCCUR, IN WHOLE OR IN PART, AS A RESULT OF A DEFAULT UNDER THIS AGREEMENT, A TORT, OR ANY OTHER CAUSE, WHETHER OR NOT A PARTY HAD KNOWLEDGE OF THE CIRCUMSTANCES THAT RESULTED IN THE SPECIAL, INDIRECT, PUNITIVE OR CONSEQUENTIAL DAMAGES OR INJURY, OR COULD HAVE FORESEEN THAT SUCH DAMAGES OR INJURY WOULD OCCUR.

B. With respect to any dispute regarding a Default or breach by ERCOT of its obligations under this Agreement, ERCOT expressly waives any Limitation of Liability to which it may be entitled under the Charitable Immunity and Liability Act of 1987, Tex. Civ. Prac. & Rem. Code §84.006, or successor statute.

C. The Parties have expressly agreed that, other than subsections A and B of this Section, this Agreement shall not include any other limitations of liability or indemnification provisions, and that such issues shall be governed solely by applicable law, in a manner consistent with Section 13(A), Choice of Law and Venue, of this Agreement, regardless of any contrary provisions that may be included in or subsequently added to the ERCOT Protocols (outside of this Agreement).

Section 12. Dispute Resolution.

A. In the event of a dispute, including a dispute regarding a Default, under this Agreement, Parties to this Agreement shall first attempt resolution of the dispute using the applicable dispute resolution procedures set forth in the ERCOT Protocols.

B. In the event of a dispute, including a dispute regarding a Default, under this Agreement, each Party shall bear its own costs and fees, including, but not limited to attorneys’ fees, court costs, and its share of any mediation or arbitration fees.

Section 13. Miscellaneous.

A. Choice of Law and Venue. Notwithstanding anything to the contrary in this Agreement, this Agreement shall be deemed entered into and performable solely in Texas and, with the exception of matters governed exclusively by federal law, shall be governed by and construed and interpreted in accordance with the laws of the State of Texas that apply to contracts executed in and performed entirely within the State of Texas, without reference to any rules of conflict of laws. Neither Party waives primary jurisdiction as a defense; provided that any court suits regarding this Agreement shall be brought in a state or federal court located within Travis County, Texas, and the Parties hereby waive any defense of forum non-conveniens, except defenses under Tex. Civ. Prac. & Rem. Code §15.002(b).

B. Assignment.

(1) Notwithstanding anything herein to the contrary, a Party shall not assign or otherwise transfer all or any of its rights or obligations under this Agreement without the prior written consent of the other Party, which shall not be unreasonably withheld or delayed, except that a Party may assign or transfer its rights and obligations under this Agreement without the prior written consent of the other Party (if neither the assigning Party or the assignee is then in Default of any Agreement with ERCOT):

(a) Where any such assignment or transfer is to an Affiliate of the Party; or

(b) Where any such assignment or transfer is to a successor to or transferee of the direct or indirect ownership or operation of all or part of the Party, or its facilities; or

(c) For collateral security purposes to aid in providing financing for itself, provided that the assigning Party will require any secured party, trustee or mortgagee to notify the other Party of any such assignment. Any financing arrangement entered into by either Party pursuant to this Section will provide that prior to or upon the exercise of the secured party’s, trustee’s or mortgagee’s assignment rights pursuant to said arrangement, the secured creditor, the trustee or mortgagee will notify the other Party of the date and particulars of any such exercise of assignment right(s). If requested by the Party making any such collateral assignment to a Financing Person, the other Party shall execute and deliver a consent to such assignment containing customary provisions, including representations as to corporate authorization, enforceability of this Agreement and absence of known Defaults, notice of material breach pursuant to Section 10(A), notice of Default, and an opportunity for the Financing Person to cure a material breach pursuant to Section 10(A) prior to it becoming a Default.

(2) An assigning Party shall provide prompt written notice of the assignment to the other Party. Any attempted assignment that violates this Section is void and ineffective. Any assignment under this Agreement shall not relieve either Party of its obligations under this Agreement, nor shall either Party’s obligations be enlarged, in whole or in part, by reason thereof.

C. No Third Party Beneficiary. Except with respect to the rights of the Financing Persons in subsection 13(B)(1)(c), (a) nothing in this Agreement nor any action taken hereunder shall be construed to create any duty, liability or standard of care to any third party, (b) no third party shall have any rights or interest, direct or indirect, in this Agreement or the services to be provided hereunder, and (c) this Agreement is intended solely for the benefit of the Parties, and the Parties expressly disclaim any intent to create any rights in any third party as a third party beneficiary to this Agreement or the services to be provided hereunder. Nothing in this Agreement shall create a contractual relationship between one Party and the customers of the other Party, nor shall it create a duty of any kind to such customers.

D. No Waiver. Parties shall not be required to give notice to enforce strict adherence to all provisions of this Agreement. No breach or provision of this Agreement shall be deemed waived, modified or excused by a Party unless such waiver, modification or excuse is in writing and signed by an authorized officer of such Party. The failure by or delay of either Party in enforcing or exercising any of its rights under this Agreement shall (a) not be deemed a waiver, modification or excuse of such right or of any breach of the same or different provision of this Agreement, and (b) not prevent a subsequent enforcement or exercise of such right. Each Party shall be entitled to enforce the other Party’s covenants and promises contained herein, notwithstanding the existence of any claim or cause of action against the enforcing Party under this Agreement or otherwise.

E. Headings. Titles and headings of paragraphs and sections within this Agreement are provided merely for convenience and shall not be used or relied upon in construing this Agreement or the Parties’ intentions with respect thereto.

F. Severability. In the event that any of the provisions, or portions or applications thereof, of this Agreement is finally held to be unenforceable or invalid by any court of competent jurisdiction, that determination shall not affect the enforceability or validity of the remaining portions of this Agreement, and this Agreement shall continue in full force and effect as if it had been executed without the invalid provision; provided, however, if either Party determines, in its sole discretion, that there is a material change in this Agreement by reason thereof, the Parties shall promptly enter into negotiations to replace the unenforceable or invalid provision with a valid and enforceable provision. If the Parties are not able to reach an agreement as the result of such negotiations within fourteen (14) days, either Party shall have the right to terminate this Agreement on three (3) days written notice.

G. Entire Agreement. Any exhibits attached to this Agreement are incorporated into this Agreement by reference and made a part of this Agreement as if repeated verbatim in this Agreement. This Agreement represents the Parties’ final and mutual understanding with respect to its subject matter. It replaces and supersedes any prior agreements or understandings, whether written or oral. No representations, inducements, promises, or agreements, oral or otherwise, have been relied upon or made by any Party, or anyone on behalf of a Party, that are not fully expressed in this Agreement. An agreement, statement, or promise not contained in this Agreement is not valid or binding.

H. Amendment. The standard form of this Agreement may only be modified through the procedure for modifying ERCOT Protocols described in the ERCOT Protocols. Any changes to the terms of the standard form of this Agreement shall not take effect until a new Agreement is executed between the Parties.

I. ERCOT’s Right to Audit Participant. Participant shall keep detailed records for a period of three years of all activities under this Agreement giving rise to any information, statement, charge, payment or computation delivered to ERCOT under the ERCOT Protocols. Such records shall be retained and shall be available for audit or examination by ERCOT as hereinafter provided. ERCOT has the right during Business Hours and upon reasonable written notice and for reasonable cause to examine the records of Participant as necessary to verify the accuracy of any such information, statement, charge, payment or computation made under this Agreement. If any such examination reveals any inaccuracy in any such information, statement, charge, payment or computation, the necessary adjustments in such information, statement, charge, payment, computation, or procedures used in supporting its ongoing accuracy will be promptly made.

J. Participant’s Right to Audit ERCOT. Participant’s right to data and audit of ERCOT shall be as described in the ERCOT Protocols and shall not exceed the rights described in the ERCOT Protocols.

K. Further Assurances. Each Party agrees that during the term of this Agreement it will take such actions, provide such documents, do such things and provide such further assurances as may reasonably be requested by the other Party to permit performance of this Agreement.

L. Conflicts. This Agreement is subject to applicable federal, state, and local laws, ordinances, rules, regulations, orders of any Governmental Authority and tariffs. Nothing in this Agreement may be construed as a waiver of any right to question or contest any federal, state and local law, ordinance, rule, regulation, order of any Governmental Authority, or tariff. In the event of a conflict between this Agreement and an applicable federal, state, and local law, ordinance, rule, regulation, order of any Governmental Authority or tariff, the applicable federal, state, and local law, ordinance, rule, regulation, order of any Governmental Authority or tariff shall prevail, provided that Participant shall give notice to ERCOT of any such conflict affecting Participant. In the event of a conflict between the ERCOT Protocols and this Agreement, the provisions expressly set forth in this Agreement shall control.

M. No Partnership. This Agreement may not be interpreted or construed to create an association, joint venture, or partnership between the Parties or to impose any partnership obligation or liability upon either Party. Neither Party has any right, power, or authority to enter any agreement or undertaking for, or act on behalf of, or to act as or be an agent or representative of, or to otherwise bind, the other Party.

N. Construction. In this Agreement, the following rules of construction apply, unless expressly provided otherwise or unless the context clearly requires otherwise:

(1) The singular includes the plural, and the plural includes the singular.

(2) The present tense includes the future tense, and the future tense includes the present tense.

(3) Words importing any gender include the other gender.

(4) The word “shall” denotes a duty.

(5) The word “must” denotes a condition precedent or subsequent.

(6) The word “may” denotes a privilege or discretionary power.

(7) The phrase “may not” denotes a prohibition.

(8) References to statutes, tariffs, regulations, or ERCOT Protocols include all provisions consolidating, amending, or replacing the statutes, tariffs, regulations, or ERCOT Protocols referred to.

(9) References to “writing” include printing, typing, lithography, and other means of reproducing words in a tangible visible form.

(10) The words “including,” “includes,” and “include” are deemed to be followed by the words “without limitation.”

(11) Any reference to a day, week, month or year is to a calendar day, week, month or year unless otherwise indicated.

(12) References to articles, Sections (or subdivisions of Sections), exhibits, annexes or schedules are to this Agreement, unless expressly stated otherwise.

(13) Unless expressly stated otherwise, references to agreements, ERCOT Protocols and other contractual instruments include all subsequent amendments and other modifications to the instruments, but only to the extent the amendments and other modifications are not prohibited by this Agreement.

(14) References to persons or Entities include their respective successors and permitted assigns and, for governmental Entities, Entities succeeding to their respective functions and capacities.

(15) References to time are to Central Prevailing Time (CPT).

O. Multiple Counterparts. This Agreement may be executed in two or more counterparts, each of which is deemed an original but all constitute one and the same instrument.

SIGNED, ACCEPTED, AND AGREED TO by each undersigned signatory who, by signature hereto, represents and warrants that he or she has full power and authority to execute this Agreement.

***Electric Reliability Council of Texas, Inc.:***

By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Title: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

***Participant:***

By: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Name:

Title:

Date:

Market Participant Name:

Market Participant DUNS:

**ERCOT Nodal Protocols**

**Section 22**

**Attachment L: Declaration of Private Use Network Net Generation Capacity Availability**

**September 1, 2021**

**Declaration of Private Use Network Net Generation Capacity Availability**

A Private Use Network is an electric network connected to the ERCOT Transmission Grid that contains load that is not directly metered by ERCOT (i.e., load that is typically netted with internal generation). A Resource Entity that represents a Generation Resource or a Settlement Only Resource (SOG) in a Private Use Network shall use this form to provide ERCOT with information required by ERCOT Protocol Section 10.3.2.4, Reporting of Net Generation Capacity. This form must be submitted to ERCOT by February 1 of each year. ERCOT shall treat this information as Protected Information in accordance with paragraph (1)(x) of Section 1.3.1.1, Items Considered Protected Information.

Please fill out this form electronically, print and sign. The form can be sent to ERCOT via email to MPRegistration@ercot.com (.pdf), via facsimile to (512) 225-7079, or via mail to ERCOT, Attention: Market Participant Registration, 8000 Metropolis Drive (Building E), Suite 100, Austin, Texas 78744.

Date of Notice:

|  |  |
| --- | --- |
| Resource Entity:        | DUNS Number:        |

Facility Name:

In the table below, enter the incremental forecasted changes in net generation capacity (in Megawatts) available to the ERCOT Transmission Grid for May 31 of the previous calendar year to May 31 of the current calendar year, and year-on-year changes as of May 31 for the next 10 subsequent years. The capacity forecasts should account for changes in both process loads and self-generation capability. Example: If the capacity change is -75 MW from May 31 of the previous calendar year to May 31 of the current year, enter -75 MW in line 1. If the capacity change is 100 MW from May 31 of the current calendar year to May 31 of the next calendar year, enter 100 MW in line 2. DO NOT enter cumulative annual changes. (For this example, do not enter 25 MW in line 2).

| **Line#** | **Annual Forecast Periods** | **Expected Change in Net Generation Capacity Available to the ERCOT Grid, MW** |
| --- | --- | --- |
| 1 | May 31 of previous calendar year to May 31 of current calendar year |       |
| 2 | May 31 of current calendar year to May 31 of forecast year 1 |       |
| 3 | May 31 of forecast year 1 to May 31 of forecast year 2 |       |
| 4 | May 31 of forecast year 2 to May 31 of forecast year 3 |       |
| 5 | May 31 of forecast year 3 to May 31 of forecast year 4 |       |
| 6 | May 31 of forecast year 4 to May 31 of forecast year 5 |       |
| 7 | May 31 of forecast year 5 to May 31 of forecast year 6 |       |
| 8 | May 31 of forecast year 6 to May 31 of forecast year 7 |       |
| 9 | May 31 of forecast year 7 to May 31 of forecast year 8 |       |
| 10 | May 31 of forecast year 8 to May 31 of forecast year 9 |       |
| 11 | May 31 of forecast year 9 to May 31 of forecast year 10 |       |

Describe any future load expansions, equipment shutdowns, or new self-generation associated with the capacity changes reported above.

|  |
| --- |
|       |
|       |
|       |
|       |

By signing below, I certify that I am authorized to execute and submit this Notice on behalf of the above Resource Entity, and that the data and statements contained herein are true and correct to the best of my knowledge.

Signature of Authorized Signatory:

Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Title: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Phone: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

|  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- | --- |
| [NPRR995: Replace Section 22, Attachment L above with the following upon system implementation:]**Declaration of Private Use Network Net Generation Capacity Availability**A Private Use Network is an electric network connected to the ERCOT Transmission Grid that contains load that is not directly metered by ERCOT (i.e., load that is typically netted with internal generation). A Resource Entity that represents a Generation Resource, a Settlement Only Generator (SOG), or a Settlement Only Energy Storage System (SOESS) in a Private Use Network shall use this form to provide ERCOT with information required by ERCOT Protocol Section 10.3.2.4, Reporting of Net Generation Capacity. This form must be submitted to ERCOT by February 1 of each year. ERCOT shall treat this information as Protected Information in accordance with paragraph (1)(x) of Section 1.3.1.1, Items Considered Protected Information.Please fill out this form electronically, print and sign. The form can be sent to ERCOT via email to MPRegistration@ercot.com (.pdf), via facsimile to (512) 225-7079, or via mail to ERCOT, Attention: Market Participant Registration, 8000 Metropolis Drive (Building E), Suite 100, Austin, Texas 78744.Date of Notice:       Resource Entity:       DUNS Number:       Facility Name:       In the table below, enter the incremental forecasted changes in net generation capacity (in Megawatts) available to the ERCOT Transmission Grid for May 31 of the previous calendar year to May 31 of the current calendar year, and year-on-year changes as of May 31 for the next 10 subsequent years. The capacity forecasts should account for changes in both process loads and self-generation capability. Example: If the capacity change is -75 MW from May 31 of the previous calendar year to May 31 of the current year, enter -75 MW in line 1. If the capacity change is 100 MW from May 31 of the current calendar year to May 31 of the next calendar year, enter 100 MW in line 2. DO NOT enter cumulative annual changes. (For this example, do not enter 25 MW in line 2).

| **Line#** | **Annual Forecast Periods** | **Expected Change in Net Generation Capacity Available to the ERCOT Grid, MW** |
| --- | --- | --- |
| 1 | May 31 of previous calendar year to May 31 of current calendar year |       |
| 2 | May 31 of current calendar year to May 31 of forecast year 1 |       |
| 3 | May 31 of forecast year 1 to May 31 of forecast year 2 |       |
| 4 | May 31 of forecast year 2 to May 31 of forecast year 3 |       |
| 5 | May 31 of forecast year 3 to May 31 of forecast year 4 |       |
| 6 | May 31 of forecast year 4 to May 31 of forecast year 5 |       |
| 7 | May 31 of forecast year 5 to May 31 of forecast year 6 |       |
| 8 | May 31 of forecast year 6 to May 31 of forecast year 7 |       |
| 9 | May 31 of forecast year 7 to May 31 of forecast year 8 |       |
| 10 | May 31 of forecast year 8 to May 31 of forecast year 9 |       |
| 11 | May 31 of forecast year 9 to May 31 of forecast year 10 |       |

Describe any future load expansions, equipment shutdowns, or new self-generation associated with the capacity changes reported above.

|  |
| --- |
|       |
|       |
|       |
|       |

By signing below, I certify that I am authorized to execute and submit this Notice on behalf of the above Resource Entity, and that the data and statements contained herein are true and correct to the best of my knowledge.Signature of Authorized Signatory: Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Title: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Phone: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ |

**ERCOT Nodal Protocols**

**Section 23**

**Form A: Congestion Revenue Right (CRR) Account Holder Application for Registration**

**January 1, 2022**

Date Received: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**CONGESTION REVENUE RIGHT (CRR) ACCOUNT HOLDER**

**APPLICATION FOR REGISTRATION**

This application is for approval as a CRR Account Holder by the Electric Reliability Council of Texas Inc. (ERCOT) in accordance with the ERCOT Protocols. Information may be inserted electronically to expand the reply spaces as necessary. ERCOT will accept the completed, executed application via email to MPRegistration@ercot.com (.pdf version), via facsimile to (512) 225-7079, or via mail to Market Participant Registration, 8000 Metropolis Drive (Building E), Suite 100, Austin, Texas 78744. In addition to the application, ERCOT must receive an application fee in the amount of $500 via check or wire transfer. If you need assistance filling out this form, or if you have any questions, please call (512) 248-3900.

This application must be signed by the Authorized Representative, Backup Authorized Representative or an Officer of the company listed herein, as appropriate. ERCOT may request additional information as reasonably necessary to support operations under the ERCOT Protocols.

**PART I – ENTITY Information**

|  |  |
| --- | --- |
| **Legal Name of the Applicant:** |       |
| **Legal Address of the Applicant:** | Street Address:       |
|  | City, State, Zip:       |
| **DUNS¹ Number:** |       |

¹ Defined in Section 2.1, Definitions.

**[ ]  Check if entity is a Non-Opt In Entity (NOIE).**

**1. Authorized Representative (“AR”)**.Defined inSection 2.1, Definitions.

|  |  |  |  |
| --- | --- | --- | --- |
| **Name:** |       | **Title:** |       |
| **Address:** |       |
| **City:** |       | **State:** |       | **Zip:** |       |
| **Telephone:** |       | **Fax:** |       |
| **Email Address:** |       |

**2. Backup AR**.*(Optional)* This person may sign any form for which an AR’s signature is required and will perform the functions of the AR in the event the AR is unavailable.

|  |  |  |  |
| --- | --- | --- | --- |
| **Name:** |       | **Title:** |       |
| **Address:** |       |
| **City:** |       | **State:** |       | **Zip:** |       |
| **Telephone:** |       | **Fax:** |       |
| **Email Address:** |       |

**3. Type of Legal Structure**. (Please indicate only one.)

[ ]  Individual [ ]  Partnership [ ]  Municipally Owned Utility

[ ]  Electric Cooperative [ ]  Limited Liability Company [ ]  Corporation

[ ]  Other:

If Applicant is not an individual, provide the state in which the Applicant is organized,      , and the date of organization:

**4. User Security Administrator (USA)**.As defined in Section 16.12, User Security Administrator and Digital Certificates, the USA is responsible for managing the Market Participant’s access to ERCOT’s computer systems through Digital Certificates.

|  |  |  |  |
| --- | --- | --- | --- |
| **Name:** |       | **Title:** |       |
| **Address:** |       |
| **City:** |       | **State:** |       | **Zip:** |       |
| **Telephone:** |       | **Fax:** |       |
| **Email Address:** |       |

**5. Backup USA**. *(Optional)* This person may perform the functions of the USA as defined in the ERCOT Protocols in the event the USA is unavailable.

|  |  |  |  |
| --- | --- | --- | --- |
| **Name:** |       | **Title:** |       |
| **Address:** |       |
| **City:** |       | **State:** |       | **Zip:** |       |
| **Telephone:** |       | **Fax:** |       |
| **Email Address:** |       |

**6. Cybersecurity**. This contact is responsible for communicating Cybersecurity Incidents.

|  |  |  |  |
| --- | --- | --- | --- |
| **Name:** |       | **Title:** |       |
| **Address:** |       |
| **City:** |       | **State:** |       | **Zip:** |       |
| **Telephone:** |       | **Fax:** |       |
| **Email Address:** |       |

**7. Allocation Eligibility**.Indicate if the Applicant is eligible for the allocation described below:

[ ]  **Pre-Assigned Congestion Revenue Right (PCRR) Allocations.** ERCOT shall allocate PCRRs to eligible Municipally Owned Utilities (MOUs) and Electric Cooperatives (ECs) pursuant to Section 7.4, Allocation of Pre-Assigned Congestion Revenue Rights.

**8. Proposed commencement date for service:**

**PART II – BANKING INFORMATION FOR FUNDS TRANSFERS**

**1. Banking Information.** Applicant must be able to conduct Electronic Funds Transfers (EFTs) for the settlement of financial transactions with ERCOT.

|  |  |
| --- | --- |
| **Bank Name:** |       |
| **Account Name:** |       |
| **Account No.:** |       |
| **ABA Number:** |       |

**2. Accounts Payable Contact (Settlement & Billing).**

|  |  |  |  |
| --- | --- | --- | --- |
| **Name:** |       | **Title:** |       |
| **Address:** |       |
| **City:** |       | **State:** |       | **Zip:** |       |
| **Telephone:** |       | **Fax:** |       |
| **Email Address:** |       |

**3. Backup Accounts Payable Contact (Settlement & Billing).** *(Optional)*

|  |  |  |  |
| --- | --- | --- | --- |
| **Name:** |       | **Title:** |       |
| **Address:** |       |
| **City:** |       | **State:** |       | **Zip:** |       |
| **Telephone:** |       | **Fax:** |       |
| **Email Address:** |       |

**PART III – ADDiTIONAL REQUIRED Information**

**1. Officers and Principals.** Provide the name of all officers and the name and position of all Principals, as defined by Section 16.1.2, Principal of a Market Participant. In addition, ERCOT will obtain the names of all individuals and/or entities listed with the Texas Secretary of State as having binding authority for the Applicant. ERCOT will use this list of individuals to determine who can execute such documents as the Standard Form Market Participant Agreement (Section 22, Attachment A), Amendment to the Standard Form Market Participant Agreement (Section 22, Attachment C), Digital Certificate Audit Attestation, etc. Alternatively, additional documentation (Articles of Incorporation, Board Resolutions, Delegation of Authority, Secretary’s Certificate, etc.) can be provided to prove binding authority for the Applicant.

**2. Affiliates and Other Registrations.** Provide the name, legal structure, and relationship of each of the Applicant’s affiliates, if applicable. See Section 2.1, Definitions, for the definition of “Affiliate.” Please also provide the name and type of any other ERCOT Market Participant registrations held by the Applicant. *(Attach additional pages if necessary.)*

|  |  |  |
| --- | --- | --- |
| **Affiliate Name**(or name used for other ERCOT registration) | **Type of Legal Structure**(partnership, limited liability company, corporation, etc.) | **Relationship**(parent, subsidiary, partner, affiliate, etc.) |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |
|  |  |  |

**3. Disclosures.** Provide the name of any Principal of the Applicant that is now, or was at any point in time, a Principal of any other Entity that is now, or was at any point in time, a registered ERCOT Market Participant, along with the name of the relevant ERCOT Market Participant and the dates during which the Principal of the Applicant was a Principal of the other Entity.

**4. Counter-Party Credit Application**. Complete the Counter-Party Credit Application, located at http://www.ercot.com/services/rq/credit, and submit as instructed in conjunction with this application, in accordance with Section 16.8, Registration and Qualification of Congestion Revenue Rights Account Holders.

**5. Annual Certification Form to Meet ERCOT Additional Minimum Participation.** Complete Section 22 Attachment J, Annual Certification Form to Meet ERCOT Additional Minimum Participation Requirements, and submit in conjunction with this application, pursuant to Section 16.16.3, Verification of Risk Management Framework.

**6. Qualified Scheduling Entity (QSE) Acknowledgment.** Provide all information requested in Attachment A below and have the document executed by both parties, ***ONLY*** if the Applicant is a Non-Opt-In Entity (NOIE) and eligible for PCRRs.

**PART IV – SIGNATURE**

I affirm that I have personal knowledge of the facts stated in this application and that I have the authority to submit this application form on behalf of the Applicant. I further affirm that all statements made and information provided in this application form are true, correct and complete, and that the Applicant will provide to ERCOT any changes in such information in a timely manner.

|  |  |
| --- | --- |
| Signature of AR, Backup AR or Officer: |  |
| Printed Name of AR, Backup AR or Officer: |       |
| Date: |       |

**Attachment A – QSE Acknowledgment**

**Acknowledgment by Designated QSE for**

**Scheduling and Settlement Responsibilities with ERCOT**

**Applicable only if CRRAH is a NOIE and eligible for Pre-Assigned CRRs**

The Applicant below has named the QSE listed below as its designated QSE to represent the Applicant for scheduling and Settlement transactions with ERCOT.

The Applicant’s designated QSE, listed below, hereby acknowledges that it does represent the Applicant and that it shall be responsible for the Applicant’s scheduling and Settlement transactions with ERCOT pursuant to the ERCOT Protocols.

The requested effective date for such representation is:      [[1]](#footnote-1)\*\*

or

Establish partnership at the earliest possible date [ ]

Acknowledgment by **QSE**:

|  |  |
| --- | --- |
| Signature of AR for QSE: |  |
| Printed Name of AR: |       |
| Email Address of AR: |       |
| Date: |       |
| Name of Designated QSE: |       |
| DUNS of Designated QSE: |       |

Acknowledgment by **Applicant**:

|  |  |
| --- | --- |
| Signature of AR for MP: |  |
| Printed Name of AR: |       |
| Email Address of AR:  |       |
| Date: |       |
| Name of MP: |       |
| DUNS No. of MP: |       |

**ERCOT Nodal Protocols**

**Section 23**

**Form B: Load Serving Entity (LSE) Application for Registration**

**March 13, 2020**

Date Received: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**LOAD SERVING ENTITY (LSE)**

**APPLICATION FOR REGISTRATION**

This application is for approval as a Load Serving Entity (LSE) by the Electric Reliability Council of Texas Inc. (ERCOT) in accordance with the ERCOT Protocols. Information may be inserted electronically to expand the reply spaces as necessary. ERCOT will accept the completed, executed application via email to MPRegistration@ercot.com (.pdf version), via facsimile to (512) 225-7079, or via mail to Market Participant Registration, 8000 Metropolis Drive (Building E), Suite 100, Austin, Texas 78744. In addition to the application, ERCOT must receive an application fee in the amount of $500 via check or wire transfer, if the applicant is a Retail Electric Provider (REP) and/or Competitive Retailer (CR), per Section 9.16.2, User Fees. If you need assistance filling out this form, or if you have any questions, please call (512) 248-3900.

This application and all subsequent documents provided to ERCOT must be signed by the Authorized Representative, Backup Authorized Representative or an Officer of the company listed herein, as appropriate. ERCOT may request additional information as reasonably necessary to support operations under the ERCOT Protocols.

**PART I – ENTITY Information**

|  |  |
| --- | --- |
| **Legal Name of the Applicant:** |       |
| **Legal Address of the Applicant:** | Street Address:       |
|  | City, State, Zip:       |
| **DUNS¹ Number:** |       |

¹Defined in Section 2.1, Definitions.

**1. Authorized Representative (“AR”)**.Defined in Section 2.1, Definitions.

|  |  |  |  |
| --- | --- | --- | --- |
| **Name:** |       | **Title:** |       |
| **Address:** |       |
| **City:** |       | **State:** |       | **Zip:** |       |
| **Telephone:** |       | **Fax:** |       |
| **Email Address:** |       |

**2. Backup AR**.*(Optional)* This person may sign any form for which an AR’s signature is required and will perform the functions of the AR in the event the AR is unavailable.

|  |  |  |  |
| --- | --- | --- | --- |
| **Name:** |       | **Title:** |       |
| **Address:** |       |
| **City:** |       | **State:** |       | **Zip:** |       |
| **Telephone:** |       | **Fax:** |       |
| **Email Address:** |       |

**3. Type of Legal Structure**. (Please indicate only one.)

[ ]  Individual [ ]  Partnership [ ]  Municipally Owned Utility

[ ]  Electric Cooperative [ ]  Limited Liability Company [ ]  Corporation

[ ]  Other:

If Applicant is not an individual, provide the state in which the Applicant is organized,      , and the date of organization:

**4. User Security Administrator (USA)**.As defined in Section 16.12, User Security Administrator and Digital Certificates, the USA is responsible for managing the Market Participant’s access to ERCOT’s computer systems through Digital Certificates.

|  |  |  |  |
| --- | --- | --- | --- |
| **Name:** |       | **Title:** |       |
| **Address:** |       |
| **City:** |       | **State:** |       | **Zip:** |       |
| **Telephone:** |       | **Fax:** |       |
| **Email Address:** |       |

**4a.** [ ]  By checking this box, Applicant hereby requests that ERCOT evaluate Applicant’s eligibility to opt out of the requirement that Market Participant designate a USA and receive Digital Certificates, and affirms the following:

(a) Applicant is applying to register with ERCOT as either a Municipally Owned Utility (MOU) or an Electric Cooperative (EC), and as a Distribution Service Provider (DSP) and/or Load Serving Entity (LSE).

(b) Applicant is not, and will not, be designated as a Transmission Operator with ERCOT.

(c) Applicant understands that by opting out, it will not be granted access to portions of the ERCOT Market Information System (MIS) that require Digital Certificate access.

(d) Applicant understands that it can cancel any approved opt-out request, designate a USA, and begin receiving Digital Certificates by properly completing Section 23, Form E, Notice of Change of Information, and meeting the requirements under Section 16.12, User Security Administrator and Digital Certificates.

(e) If determined ineligible, Applicant must designate a USA, receive Digital Certificates and comply with requirements under Section 16.12.

**5. Backup USA**. *(Optional)* This person may perform the functions of the USA in the event the Primary USA is unavailable.

|  |  |  |  |
| --- | --- | --- | --- |
| **Name:** |       | **Title:** |       |
| **Address:** |       |
| **City:** |       | **State:** |       | **Zip:** |       |
| **Telephone:** |       | **Fax:** |       |
| **Email Address:** |       |

**6. Cybersecurity**. This contact is responsible for communicating Cybersecurity Incidents.

|  |  |  |  |
| --- | --- | --- | --- |
| **Name:** |       | **Title:** |       |
| **Address:** |       |
| **City:** |       | **State:** |       | **Zip:** |       |
| **Telephone:** |       | **Fax:** |       |
| **Email Address:** |       |

**7. Transition/Acquisition (“TA”).** Requirement for Competitive Retailers (CRs). Responsible for coordinating Mass TA events between ERCOT, Transmission and/or Distribution Service Providers (TDSPs) and CRs. The CR may be a Provider of Last Resort (POLR), designated CR, gaining CR or losing CR. Includes TA Business (“TAB”), TA Regulatory (“TAR”) and TA Technical (“TAT”).

**TAB:**

|  |  |  |  |
| --- | --- | --- | --- |
| **Name:** |       | **Title:** |       |
| **Address:** |       |
| **City:** |       | **State:** |       | **Zip:** |       |
| **Telephone:** |       | **Fax:** |       |
| **Email Address:** |       |

**TAR:**

|  |  |  |  |
| --- | --- | --- | --- |
| **Name:** |       | **Title:** |       |
| **Address:** |       |
| **City:** |       | **State:** |       | **Zip:** |       |
| **Telephone:** |       | **Fax:** |       |
| **Email Address:** |       |

**TAT:**

|  |  |  |  |
| --- | --- | --- | --- |
| **Name:** |       | **Title:** |       |
| **Address:** |       |
| **City:** |       | **State:** |       | **Zip:** |       |
| **Telephone:** |       | **Fax:** |       |
| **Email Address:** |       |

**8. Type of Applicant.** Please indicate how the Applicant intends to operate in the market pursuant to the ERCOT Protocols. Please check all that apply.

[ ]  **CR** – MOU or an EC that offers Customer Choice and sells electric energy at retail in the restructured electric power market in Texas; or a Retail Electric Provider (REP) as defined in P.U.C. Subst. R. 25.5, Definitions. (If CR, check one of the following):

[ ]  **Opt-In MOU or EC** – A MOU or an EC that offers Customer Choice.

[ ]  **REP** – A person that sells electric energy to retail Customers in this state. As provided in the Public Utility Regulatory Act, Tex. Util. Code Ann. § 31.002(17) (Vernon 1998 & Supp. 2007) (PURA), a REP may not own or operate generation assets. As provided in PURA § 39.353(b), a REP is not an Aggregator.

[ ]  **Non-Opt-In Entity (NOIE)** – An EC or MOU that does not offer Customer Choice and does not plan to operate as a CR.

[ ]  **External LSE (ELSE)** – A distribution service provider (as that term is defined in P.U.C. Subst. R. 25.5), which includes an electric utility, a MOU, or an EC that has a legal duty to serve one or more Customers connected to the ERCOT System but that does not own or operate Facilities connecting Customers to the ERCOT System.

**9. Default method for receiving transaction information from Transaction Clearinghouse.**

**Select one**: [ ]  EDI, [ ]  XML, or [ ]  Portal

**PART II – SCHEDULING INFORMATION**

**1. Designation of a Qualified Scheduling Entity (QSE).** Provide all information requested in Attachment A and have the document executed by both parties.

**PART III – REP INFORMATION**

(Part III applies to REPs only.)

**1. Other Trade or Commercial Names on PUCT Certificate**. (Limit: 4)

|  |  |
| --- | --- |
| Other Trade/Commercial Name: | DUNS Number: |
|       |       |
|       |       |
|       |       |
|       |       |

**2. Texas Office**. Supply the Texas office location information indicated below prior to providing retail electric service in Texas:

|  |  |
| --- | --- |
| Name in use at Texas office: |       |
| Street Address of Texas office: |       |
| City, State, Zip: |       |
| Telephone: |       |
| Fax: |       |
| Email: |       |

**3. Service Area**. Please designate service area by selecting one of the options below.

[ ]  **Option 1** – For LSEs defining service area by geography. Check only one of the following boxes and complete supplemental information, if any, to designate desired geographical service area:

[ ]  The geographic area of the entire state of Texas.

[ ]  A specific geographic area (including the zip codes applicable to that area), as follows (list them):      .

[ ]  The service area of specific transmission and distribution utilities and/or Municipally Owned Utilities (MOUs) or Electric Cooperatives (ECs) in which competition is offered, as follows (list them):      .

[ ]  The geographic area of ERCOT or other independent organization to the extent it is within Texas, as follows (name it):

[ ]  **Option 2** – For LSEs defining service area by customers. Provide an attached list of each individual retail customer, by name, with who it has contracted to provide one megawatt (1 MW) or more of capacity, pursuant to subsection (d)(2)(A) of P.U.C. Subst. R. 25.107, Certification of Retail Electric Providers (REPs).

[ ]  **Option 3** – For LSEs that sell electricity exclusively to a retail customer other than a small commercial consumer and residential customer from a Distributed Generation (DG) facility located on a site controlled by that customer.

**4. PUCT Certification.**

|  |  |
| --- | --- |
| Date Certificate granted:       | Certificate Number:       |

**PART IV – ADDITIONAL REQUIRED INFORMATION**

**1. Officers.** ERCOT will obtain the names of all individuals and/or entities listed with the Texas Secretary of State or otherwise designated as having binding authority for the Applicant. ERCOT will use this list of individuals to determine who can execute such documents as the Standard Form Market Participant Agreement (Section 22, Attachment A), Amendment to Standard Form Market Participant Agreement (Section 22, Attachment C), Digital Certificate Audit Attestation (DCAA), etc. Alternatively, additional documentation (Articles of Incorporation, Board Resolutions, Delegation of Authority, Secretary’s Certificate, etc.) can be provided to prove binding authority for the Applicant.

**2. Affiliates and Other Registrations**. Provide the name, legal structure, and relationship of each of the Applicant’s affiliates, if applicable. See Section 2.1, Definitions, for the definition of “Affiliate.” Please also provide the name and type of any other ERCOT Market Participant registrations held by the Applicant. *(Attach additional pages if necessary.)*

|  |  |  |
| --- | --- | --- |
| **Affiliate Name**(or name used for other ERCOT registration) | **Type of Legal Structure**(partnership, limited liability company, corporation, etc.) | **Relationship**(parent, subsidiary, partner, affiliate, etc.) |
|  |  |  |
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**PART V – SIGNATURE**

I affirm that I have personal knowledge of the facts stated in this application and that I have the authority to submit this application form on behalf of the Applicant. I further affirm that all statements made and information provided in this application form are true, correct and complete, and that the Applicant will provide to ERCOT any changes in such information in a timely manner.

|  |  |
| --- | --- |
| Signature of AR, Backup AR or Officer: |  |
| Printed Name of AR, Backup AR or Officer: |  |
| Date: |  |

**Attachment A – QSE Acknowledgment**

**Acknowledgment by Designated QSE for**

**Scheduling and Settlement Responsibilities with ERCOT**

The Applicant below has named the QSE listed below as its designated QSE to represent the Applicant for scheduling and Settlement transactions with ERCOT.

The Applicant’s designated QSE, listed below, hereby acknowledges that it does represent the Applicant and that it shall be responsible for the Applicant’s scheduling and Settlement transactions with ERCOT pursuant to the ERCOT Protocols.

The requested effective date for such representation is:      [[2]](#footnote-2)\*\*

or

Establish partnership at the earliest possible date [ ]

Acknowledgment by **QSE**:

|  |  |
| --- | --- |
| Signature of AR for QSE: |  |
| Printed Name of AR: |       |
| Email Address of AR: |       |
| Date: |       |
| Name of Designated QSE: |       |
| DUNS of Designated QSE: |       |

Acknowledgment by **Applicant**:

|  |  |
| --- | --- |
| Signature of AR for MP: |  |
| Printed Name of AR: |       |
| Email Address of AR:  |       |
| Date: |       |
| Name of MP: |       |
| DUNS No. of MP: |       |

**ERCOT Nodal Protocols**

**Section 23**

**Form D: Market Participant Agency Agreement**

**November 1, 2017**

**Market Participant Agency Agreement**

This Market Participant Agency Agreement (“Agreement”) effective as of Date (“Effective Date”) is entered into by and among Name of Agent, a Business Entity & Type (“Agent”) and Name of Principal, a Business Entity & Type (“Principal”) and Electric Reliability Council of Texas, Inc., a Texas non-profit corporation (“ERCOT”).

In consideration of the mutual covenants and promises contained herein, the parties to this Agreement hereby agree as follows:

1. “ERCOT Protocols” shall mean the document adopted by ERCOT, including any attachments or exhibits referenced in that document, as amended from time to time, that contains the scheduling, operating, planning, reliability, and settlement (including customer registration) policies, rules, guidelines, procedures, standards, and criteria of ERCOT. Definitions contained in the ERCOT Protocols shall apply to this Agreement.
2. Principal is a *(mark all Entity types that apply)*: [ ]  Transmission Service Provider

[ ]  Distribution Service Provider

 [ ]  Resource Entity

 [ ]  Load Serving Entity

1. Principal agrees that Agent has the authority to act on Principal’s behalf for any activity governed by the ERCOT Protocols and agrees to be bound by Agent’s acts as if Principal had performed such acts.
2. Agent agrees to perform on Principal’s behalf, or coordinate with Principal for the performance of, all actions that are required of Principal under the ERCOT Protocols.
3. With respect to any activity that would be required of Principal under the ERCOT Protocols, ERCOT agrees to communicate with Agent and to allow Agent’s performance of such activity on behalf of Principal.
4. Agent represents and warrants that it has executed or will timely execute and maintain any agreements required by the ERCOT Protocols of Agent acting on its own behalf. Agent further represents and warrants that it has executed or will timely execute and maintain any agreements required by the ERCOT Protocols of Principal (i.e. for all Entity types marked above). Agent and Principal further agree that, during the term of this Agreement, Agent may act on behalf of Principal under such agreements as though Principal had executed such agreements.
5. This Agreement is effective as of the Effective Date and may be terminated by any party upon 30 days written notice to all other parties.
6. Notices under this Agreement shall be delivered to the parties at the addresses specified below in accordance with the notice procedures set forth in the Standard Form Market Participant Agreement (Section 22, Attachment A).

*Each person whose signature appears below represents and warrants that he or she has authority to bind the party on whose behalf he or she has executed this Agreement. Executed and Agreed:*

|  |  |  |
| --- | --- | --- |
| ERCOT:Signed: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Printed Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Position/Title: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Address:8000 Metropolis Drive (Building E), Suite 100Austin, Texas 78744 | Agent:Signed: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Printed Name: NamePosition/Title: TitleDate: DateAddress:Street AddressCity, State, Zip | Principal:Signed: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Printed Name: NamePosition/Title: TitleDate: DateAddress:Street AddressCity, State, Zip |

**ERCOT Nodal Protocols**

**Section 23**

**Form E: Notice of Change of Information**

**March 1, 2021**

**NOTICE OF CHANGE OF INFORMATION**

A Market Participant must update, amend and/or correct the registration information previously submitted to ERCOT using this Notice of Change of Information (NCI). The Market Participant must notify ERCOT of any change to the information or additional information on any application or form that it has previously submitted to ERCOT according to the notification timeframe in the ERCOT Protocols or, if the Protocols do not contain a timeframe for the subject matters, at least 30 days before the change will take effect. Please fill out this form electronically, print and execute. Submit all changes and/or additional information by one of the following methods: 1) Market Information System (MIS); 2) email to MPRegistration@ercot.com; 3) facsimile to (512) 225-7079; or 4) regular mail to Market Participant Registration, 8000 Metropolis Drive (Building E), Suite 100, Austin, Texas 78744.

Except as otherwise required by the ERCOT Protocols, ERCOT will send a written acknowledgement of receipt of the changes within five Business Days of receipt and will notify Market Participant of any deficiencies or any additional documentation required within 10 days of receipt. The notice of receipt will be sent to the email address of the Authorized Representative on file with ERCOT or the address specified in the NCI received by ERCOT.

The following contacts/information can be changed via the submittal of this NCI:

* **Authorized Representative (“AR”)** – Responsible for updating all registration information, and will be the contact person between the Market Participant and ERCOT for all business matters requiring authorization by ERCOT. *(All Market Participant Types)*
* **Backup AR** – May perform the functions of the AR in the event the AR is unavailable. *(All Market Participant Types)*
* **User Security Administrator (USA)** – Responsible for managing the Market Participant’s access to ERCOT’s computer systems through Digital Certificates. *(All Market Participant Types)*
* **Backup USA** – May perform the functions of the USA in the event the USA is unavailable. *(All Market Participant Types)*
* **Cybersecurity** – Responsible for communicating Cybersecurity Incidents.
* **24x7 Control or Operations Center (24x7)** – Responsible for operational communications. Shall have sufficient authority to commit and bind the entity. The Market Participant must provide a 24x7 phone number for the operations desk in a manner that reasonably assures continuous communication with ERCOT and is not affected by private branch exchange (PBX) features such as automatic transfer or roll to voice mail. *(Qualified Scheduling Entities (QSEs), sub-QSEs, Transmission Service Providers (TSPs))*
* **Compliance** – Responsible for compliance related issues. *(QSEs, Sub-QSEs, Resource Entities (“REs”), TSPs, Distribution Service Providers (DSPs))*
* **Accounts Payable (“AP”)** – Responsible for settlements and billing. *(Congestion Revenue Right (CRR) Account Holders (CRRAHs), QSEs, Sub-QSEs)*
* **Backup AP** – May perform the functions of the AP in the event the AP is unavailable. *(CRRAHs, QSEs, Sub-QSEs)*
* **Credit** – Responsible for all credit-related matters. *(Counter-Parties (CPs))*
* **Backup Credit** – May perform the functions of the Credit in the event the Credit is unavailable. *(CPs)*
* **Transition/Acquisition (“TA”)** – Requirement for Competitive Retailers (CRs) and Transmission and/or Distribution Service Providers (TDSPs). Responsible for coordinating Mass TA events between ERCOT, TDSPs and CRs. The CR may be a Provider of Last Resort (POLR), Designated CR, Gaining CR or Losing CR. Includes TA Business (“TAB”), TA Regulatory (“TAR”) and TA Technical (“TAT”). List one contact per TA. *(Load Serving Entities (LSEs), TSPs, DSPs)*
* **Legal Address Change** *(All Market Participant Types)*

|  |  |
| --- | --- |
| \*Market Participant Account Name(s): |       |
| \*Data Universal Numbering System (DUNS) Number(s): |       |
| \*Market Participant Type(s): | [ ]  CP [ ]  CRRAH [ ]  Independent Market Information System Registered Entity (IMRE) [ ]  LSE [ ]  QSE/Sub-QSE[ ]  RE [ ]  TSP and/or DSP |

Comments (if necessary):

Received: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

|  |  |
| --- | --- |
| \*AR, Backup AR or Officer: |       |
| \*Signature: |  |
| \*Email: |       |
| \*Phone Number: |       |

**1. Contact type(s):** [ ]  AR [ ]  Backup AR [ ]  USA [ ]  Backup USA [ ]  Cybersecurity [ ]  24x7

[ ]  Compliance [ ]  AP [ ]  Backup AP [ ]  Credit [ ]  Backup Credit [ ]  TAB

[ ]  TAR [ ]  TAT

|  |  |  |  |
| --- | --- | --- | --- |
| Name: |       | Title: |       |
| Address: |       |
| City: |       | State: |       | Zip: |       |
| Telephone: |       | Fax: |       |
| Email Address: |       |

If former contact(s) is/are no longer with the Market Participant please list name(s) here:

**Contact type(s):** [ ]  AR [ ]  Backup AR [ ]  USA [ ]  Backup USA [ ]  Cybersecurity [ ]  24x7 [ ]  Compliance [ ]  AP [ ]  Backup AP [ ]  Credit [ ]  Backup Credit [ ]  TAB [ ]  TAR [ ]  TAT

|  |  |  |  |
| --- | --- | --- | --- |
| Name: |       | Title: |       |
| Address: |       |
| City: |       | State: |       | Zip: |       |
| Telephone: |       | Fax: |       |
| Email Address: |       |

If former contact(s) is/are no longer with the Market Participant please list name(s) here:

**Contact type(s):** [ ]  AR [ ]  Backup AR [ ]  USA [ ]  Backup USA [ ]  Cybersecurity [ ]  24x7 [ ]  Compliance [ ]  AP [ ]  Backup AP [ ]  Credit [ ]  Backup Credit [ ]  TAB [ ]  TAR [ ]  TAT

|  |  |  |  |
| --- | --- | --- | --- |
| Name: |       | Title: |       |
| Address: |       |
| City: |       | State: |       | Zip: |       |
| Telephone: |       | Fax: |       |
| Email Address: |       |

If former contact(s) is/are no longer with the Market Participant please list name(s) here:

**Contact type(s):** [ ]  AR [ ]  Backup AR [ ]  USA [ ]  Backup USA [ ]  Cybersecurity [ ]  24x7 [ ]  Compliance [ ]  AP [ ]  Backup AP [ ]  Credit [ ]  Backup Credit [ ]  TAB [ ]  TAR [ ]  TAT

|  |  |  |  |
| --- | --- | --- | --- |
| Name: |       | Title: |       |
| Address: |       |
| City: |       | State: |       | Zip: |       |
| Telephone: |       | Fax: |       |
| Email Address: |       |

If former contact(s) is/are no longer with the Market Participant please list name(s) here:

**Contact type(s):** [ ]  AR [ ]  Backup AR [ ]  USA [ ]  Backup USA [ ]  Cybersecurity [ ]  24x7 [ ]  Compliance [ ]  AP [ ]  Backup AP [ ]  Credit [ ]  Backup Credit [ ]  TAB [ ]  TAR [ ]  TAT

|  |  |  |  |
| --- | --- | --- | --- |
| Name: |       | Title: |       |
| Address: |       |
| City: |       | State: |       | Zip: |       |
| Telephone: |       | Fax: |       |
| Email Address: |       |

If former contact(s) is/are no longer with the Market Participant please list name(s) here:

**Contact type(s):** [ ]  AR [ ]  Backup AR [ ]  USA [ ]  Backup USA [ ]  Cybersecurity [ ]  24x7 [ ]  Compliance [ ]  AP [ ]  Backup AP [ ]  Credit [ ]  Backup Credit [ ]  TAB [ ]  TAR [ ]  TAT

|  |  |  |  |
| --- | --- | --- | --- |
| Name: |       | Title: |       |
| Address: |       |
| City: |       | State: |       | Zip: |       |
| Telephone: |       | Fax: |       |
| Email Address: |       |

If former contact(s) is/are no longer with the Market Participant please list name(s) here:

**Contact type(s):** [ ]  AR [ ]  Backup AR [ ]  USA [ ]  Backup USA [ ]  Cybersecurity [ ]  24x7 [ ]  Compliance [ ]  AP [ ]  Backup AP [ ]  Credit [ ]  Backup Credit [ ]  TAB [ ]  TAR [ ]  TAT

|  |  |  |  |
| --- | --- | --- | --- |
| Name: |       | Title: |       |
| Address: |       |
| City: |       | State: |       | Zip: |       |
| Telephone: |       | Fax: |       |
| Email Address: |       |

If former contact(s) is/are no longer with the Market Participant please list name(s) here:

**2. Legal Address Change**

|  |
| --- |
| Address:       |
| City, State, Zip:       |

**3. Cancelation of User Security Administrator (USA) and Digital Certificate Opt-Out**

[ ]  By checking this box, Market Participant elects to: (i) cancel its USA and Digital Certificate Opt-Out; (ii) designate a USA and optionally a Backup USA, listed in Section 1, Contact type(s), of this NCI form; and (iii) receive Digital Certificates as required by Section 16.12, User Security Administrator and Digital Certificates. Market Participant understands that designation of a USA and Backup USA, and issuance of Digital Certificates, is subject to the requirements in Section 16.12.

**ERCOT Nodal Protocols**

**Section 23**

**Form F: Qualified Scheduling Entity (QSE) Agency Agreement**

**November 1, 2017**

**QUALIFIED SCHEDULING ENTITY (QSE) AGENCY AGREEMENT**

This Qualified Scheduling Entity (QSE) Agency Agreement (“Agreement”) is made this Day of Month day of Month, Year (“Effective Date”) by and between Electric Reliability Council of Texas, Inc. (“ERCOT”), Name of Principal (“Principal”), and Name of Agent (“Agent”).

**WHEREAS,** ERCOT is the Independent Organization certified under Public Utility Regulatory Act, Tex. Util. Code Ann. § 39.151 (Vernon 1998 & Supp. 2007) (PURA) for the ERCOT Region, and

**WHEREAS,** Principal has a valid Standard Form Market Participant Agreement (Section 22, Attachment A) with ERCOT, is registered as a QSE with ERCOT, and has contracted with Agent to provide QSE support services to Principal, and

**WHEREAS,** Agent has a valid Standard Form Market Participant Agreement (Section 22, Attachment A) with ERCOT, is registered as a QSE with ERCOT, and is subject to all ERCOT Protocols as an authorized QSE, and

**WHEREAS,** the three parties to this Agreement desire a clear expression of their rights, obligations, and privileges with respect to their inter-related conduct under the ERCOT Protocols.

**NOW THEREFORE,** the parties do hereby agree as follows:

1. “ERCOT Protocols” shall mean the document adopted by ERCOT, including any attachments or exhibits referenced in that document, as amended from time to time, that contains the scheduling, operating, planning, reliability, and settlement policies, rules, guidelines, procedures, standards, and criteria of ERCOT. Definitions contained in the ERCOT Protocols shall apply to this Agreement.
2. Principal does hereby appoint Agent as its authorized agent for the limited purpose of (select one or more of the following):

[ ]  A. Communicating with and receiving operational voice communications from ERCOT over the ERCOT Wide Area Network (WAN), including, without limitation, receiving and discussing Dispatch Instructions;

[ ]  B. Exchanging Inter-Control Center Communications Protocol (ICCP) data with ERCOT over the ERCOT WAN; and/or

[ ]  C. Exchanging Extensible Markup Language (XML) data with ERCOT over the ERCOT WAN.

1. Agent does hereby accept the appointment as the limited agent for Principal, solely for the purposes described in paragraph 2, above.
2. ERCOT acknowledges the existence of a separate service contract between Principal and Agent, as well as the limited agency appointment contained in this Agreement, which from time to time will result in Agent-to-ERCOT communications on Principal’s behalf.
3. ERCOT grants Principal and Agent the privilege of enjoying such an agency relationship by permitting direct Agent communications to and from ERCOT on Principal’s behalf for the purposes described in paragraph 2, above, without requiring an express authorization from Principal for each such communication.
4. Principal and Agent agree to abide by all ERCOT Protocols, as amended from time to time.
5. Principal and Agent do hereby release ERCOT of any liability for the revealing, transmitting, or publishing to Agent of any sensitive Principal commercial and operational data or Principal’s Protected Information.
6. Principal and Agent agree that this Agreement governs QSE support services for only the QSE and/or sub-QSEs designated herein:

Name of QSE DUNS Number

Name of Sub-QSE DUNS Number

Name of Sub-QSE DUNS Number

Name of Sub-QSE DUNS Number

Name of Sub-QSE DUNS Number

1. This Agreement shall terminate no later than Termination Date. Any party to this Agreement may terminate it upon thirty days advance written notice to the other parties. Notice of termination of this Agreement shall be provided to the address listed herein in accordance with the notice provisions contained in the parties’ respective Standard Form Market Participant Agreements.

Executed and agreed as of the Effective Date by the below named authorized signatories:

|  |  |  |
| --- | --- | --- |
| Principal:Signed: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Printed Name: NamePosition/Title: TitleDate: DateAddress:AddressCity, State, Zip | Agent:Signed: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Printed Name: NamePosition/Title: TitleDate: DateAddress:AddressCity, State, Zip | ERCOT:Signed: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Printed Name: NamePosition/Title: TitleDate: DateAddress:8000 Metropolis Drive (Building E), Suite 100Austin, Texas 78744 |

**ERCOT Nodal Protocols**

**Section 23**

**Form G: QSE Application and Service Filing for Registration Form**

**January 1, 2022**

**QUALIFIED SCHEDULING ENTITY (QSE)**

**APPLICATION AND SERVICE FILING FOR REGISTRATION**

This application is for approval as a Qualified Scheduling Entity (QSE) by Electric Reliability Council of Texas Inc. (ERCOT) in accordance with the ERCOT Protocols. Information may be inserted electronically to expand the reply spaces as necessary. ERCOT will accept the completed, executed application via email to MPRegistration@ercot.com (.pdf version), via facsimile to (512) 225-7079, or via mail to Market Participant Registration, 8000 Metropolis Drive (Building E), Suite 100, Austin, Texas 78744. In addition to the application, ERCOT must receive an application fee in the amount of $500 via check. If you need assistance filling out this form, or if you have any questions, please call (512) 248-3900.

This application must be signed by the Authorized Representative, Backup Authorized Representative or an Officer of the company listed herein, as appropriate. ERCOT may request additional information as reasonably necessary to support operations under the ERCOT Protocols.

**PART I – ENTITY Information**

|  |  |
| --- | --- |
| **Legal Name of the Applicant:** |       |
| **Legal Address of the Applicant:** | Street Address:       |
|  | City, State, Zip:       |
| **DUNS¹ Number:** |       |

¹Defined in Section 2.1, Definitions.

**[ ]  Check if Applying as an Emergency Response Service (ERS) Only QSE.**

**1. Authorized Representative (“AR”).** Defined in Section 2.1, Definitions.

|  |  |  |  |
| --- | --- | --- | --- |
| **Name:** |       | **Title:** |       |
| **Address:** |       |
| **City:** |       | **State:** |  | **Zip:** |  |
| **Telephone:** |       | **Fax:** |       |
| **Email Address:** |       |

**2. Backup AR.** *(Optional)* This person may sign any form for which an AR’s signature is required and will perform the functions of the AR as defined in the ERCOT Protocols in the event the AR is unavailable.

|  |  |  |  |
| --- | --- | --- | --- |
| **Name:** |       | **Title:** |       |
| **Address:** |       |
| **City:** |       | **State:** |  | **Zip:** |  |
| **Telephone:** |       | **Fax:** |       |
| **Email Address:** |       |

**3. Type of Legal Structure.** (Please indicate only one.)

[ ]  Individual [ ]  Partnership [ ]  Municipally Owned Utility

[ ]  Electric Cooperative [ ]  Limited Liability Company [ ]  Corporation

[ ]  Other:

If Applicant is not an individual, provide the state in which the Applicant is organized,      , and the date of organization:      .

**4. User Security Administrator (USA).** As defined in Section 16.12, User Security Administrator and Digital Certificates, the USA is responsible for managing the Market Participant’s access to ERCOT’s computer systems through Digital Certificates.

|  |  |  |  |
| --- | --- | --- | --- |
| **Name:** |       | **Title:** |       |
| **Address:** |       |
| **City:** |       | **State:** |  | **Zip:** |  |
| **Telephone:** |       | **Fax:** |       |
| **Email Address:** |       |

**5. Backup USA.** *(Optional)* This person may perform the functions of the USA as defined in the ERCOT Protocols in the event the USA is unavailable.

|  |  |  |  |
| --- | --- | --- | --- |
| **Name:** |       | **Title:** |       |
| **Address:** |       |
| **City:** |       | **State:** |  | **Zip:** |  |
| **Telephone:** |       | **Fax:** |       |
| **Email Address:** |       |

**6. Cybersecurity**. This contact is responsible for communicating Cybersecurity Incidents.

|  |  |  |  |
| --- | --- | --- | --- |
| **Name:** |       | **Title:** |       |
| **Address:** |       |
| **City:** |       | **State:** |       | **Zip:** |       |
| **Telephone:** |       | **Fax:** |       |
| **Email Address:** |       |

**7. 24x7 Control or Operations Center.** As defined in item (1)(k) of Section 16.2.1, Criteria for Qualification as a Qualified Scheduling Entity, the 24x7control or operations center is responsible for operational communications and shall have sufficient authority to commit and bind the QSE.

|  |  |
| --- | --- |
| **Desk Name:** |       |
| **Address:** |       |
| **City:** |       | **State:** |  | **Zip:** |  |
| **Telephone:** |       | **Fax:** |       |
| **Email Address:** |       |

**8. Compliance Contact.** This person is responsible for compliance related issues.

|  |  |  |  |
| --- | --- | --- | --- |
| **Name:** |       | **Title:** |       |
| **Address:** |       |
| **City:** |       | **State:** |  | **Zip:** |  |
| **Telephone:** |       | **Fax:** |       |
| **Email Address:** |       |

**9. Proposed commencement date for service:**

**PART II – BANKING INFORMATION FOR FUNDS TRANSFERS**

**1. Banking Information.** Applicant must be able to conduct Electronic Funds Transfers (EFTs) for the settlement of financial transactions with ERCOT.

|  |  |
| --- | --- |
| **Bank Name:** |       |
| **Account Name:** |       |
| **Account No.:** |       |
| **ABA Number:** |       |

**2. Accounts Payable Contact (Settlement & Billing).**

|  |  |  |  |
| --- | --- | --- | --- |
| **Name:** |       | **Title:** |       |
| **Address:** |       |
| **City:** |       | **State:** |  | **Zip:** |  |
| **Telephone:** |       | **Fax:** |       |
| **Email Address:** |       |

**Backup Accounts Payable Contact (Settlement & Billing).** *(Optional)*

|  |  |  |  |
| --- | --- | --- | --- |
| **Name:** |       | **Title:** |       |
| **Address:** |       |
| **City:** |       | **State:** |  | **Zip:** |  |
| **Telephone:** |       | **Fax:** |       |
| **Email Address:** |       |

**PART III – DECLARATION OF SUBORDINATE QSEs**

If the QSE intends to partition itself into subordinate QSEs (Sub-QSEs), please enter information for each Sub-QSE below. If a Sub-QSE will have a different 24x7 Contact than the QSE, please provide that information in the spaces provided below. The Sub-QSE name must have a reference to the Legal Entity Name. For example: Legal Name of Market Participant (SQ1), Legal Name of Market Participant (SQ2), etc.

**Sub-QSE One (SQ1)**

**Name:**       **Proposed commencement date for service:**

**24x7 Contact information same? [ ]  Yes [ ]  No (If no, complete the section below)**

|  |  |  |  |
| --- | --- | --- | --- |
| **Name:** |       | **Title:** |       |
| **Address:** |       |
| **City:** |       | **State:** |  | **Zip:** |  |
| **Telephone:** |       | **Fax:** |       |
| **Email Address:** |       |

**Sub-QSE Two (SQ2)**

**Name:**       **Proposed commencement date for service:**

**24x7 Contact information same? [ ]  Yes [ ]  No (If no, complete the section below)**

|  |  |  |  |
| --- | --- | --- | --- |
| **Name:** |       | **Title:** |       |
| **Address:** |       |
| **City:** |       | **State:** |  | **Zip:** |  |
| **Telephone:** |       | **Fax:** |       |
| **Email Address:** |       |

**Sub-QSE Three (SQ3)**

**Name:**       **Proposed commencement date for service:**

**24x7 Contact information same? [ ]  Yes [ ]  No (If no, complete the section below)**

|  |  |  |  |
| --- | --- | --- | --- |
| **Name:** |       | **Title:** |       |
| **Address:** |       |
| **City:** |       | **State:** |  | **Zip:** |  |
| **Telephone:** |       | **Fax:** |       |
| **Email Address:** |       |

**Sub-QSE Four (SQ4)**

**Name:**       **Proposed commencement date for service:**

**24x7 Contact information same? [ ]  Yes [ ]  No (If no, complete the section below)**

|  |  |  |  |
| --- | --- | --- | --- |
| **Name:** |       | **Title:** |       |
| **Address:** |       |
| **City:** |       | **State:** |  | **Zip:** |  |
| **Telephone:** |       | **Fax:** |       |
| **Email Address:** |       |

**PART IV – ADDiTIONAL REQUIRED Information**

**1. Officers and Principals.** Provide the name of all officers and the name and position of each Principal, as defined by Section 16.1.2, Principal of a Market Participant. In addition, ERCOT will obtain the names of all individuals and/or entities listed with the Texas Secretary of State as having binding authority for the Applicant. ERCOT will use this list of individuals to determine who can execute such documents as the Standard Form Market Participant Agreement (Section 22, Attachment A), Amendment to Standard Form Market Participant Agreement (Section 22, Attachment C), Digital Certificate Audit Attestation, etc. Alternatively, additional documentation (Articles of Incorporation, Board Resolutions, Delegation of Authority, Secretary’s Certificate, etc.) can be provided to prove binding authority for the Applicant.

**2. Affiliates and Other Registrations.** Provide the name, legal structure, and relationship of each of the Applicant’s affiliates, if applicable. See Section 2.1, Definitions, for the definition of “Affiliate.” Please also provide the name and type of any other ERCOT Market Participant registrations held by the Applicant. *(Attach additional pages if necessary.)*

**3. Disclosures.** Provide the name of any Principal of the Applicant that is now, or was at any point in time, a Principal of any other Entity that is now, or was at any point in time, a registered ERCOT Market Participant, along with the name of the relevant ERCOT Market Participant and the dates during which the Principal of the Applicant was a Principal of the other Entity.

**4. Counter-Party Credit Application.** Complete the Counter-Party Credit Application, located at http://www.ercot.com/services/rq/credit, and submit as instructed in conjunction with this application, in accordance with Section 16.2, Registration and Qualification of Qualified Scheduling Entities.

|  |  |  |
| --- | --- | --- |
| **Affiliate Name**(or name used for other ERCOT registration) | **Type of Legal Structure**(partnership, limited liability company, corporation, etc.) | **Relationship**(parent, subsidiary, partner, affiliate, etc.) |
|  |  |  |
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**5. Annual Certification Form to Meet ERCOT Additional Minimum Participation.** Complete Section 22, Attachment J, Annual Certification Form to Meet ERCOT Additional Minimum Participation Requirements, and submit in conjunction with this application, pursuant to Section 16.16.3, Verification of Risk Management Framework.

**PART V – SIGNATURE**

I affirm that I have personal knowledge of the facts stated in this application and that I have the authority to submit this application form on behalf of the Applicant. I further affirm that all statements made and information provided in this application form are true, correct and complete, and that the Applicant will provide to ERCOT any changes in such information in a timely manner.

|  |  |
| --- | --- |
| Signature of AR, Backup AR or Officer: |  |
| Printed Name of AR, Backup AR or Officer: |  |
| Date: |  |

**ERCOT Nodal Protocols**

**Section 23**

**Form I: Resource Entity Application for Registration**

**September 1, 2021**

**RESOURCE ENTITY**

**APPLICATION FOR REGISTRATION**

This application is for approval as a Resource Entity by the Electric Reliability Council of Texas Inc. (ERCOT) in accordance with the ERCOT Protocols. Information may be inserted electronically to expand the reply spaces as necessary. The completed, executed application will be accepted by ERCOT via email to MPRegistration@ercot.com (.pdf version), via facsimile to (512) 225-7079, or via mail to Market Participant Registration, 8000 Metropolis Drive (Building E), Suite 100, Austin, Texas 78744. If you need assistance filling out this form, or if you have any questions, please call (512) 248-3900.

This application must be signed by the Authorized Representative, Backup Authorized Representative or an Officer of the company listed herein, as appropriate. ERCOT may request additional information as reasonably necessary to support operations under the ERCOT Protocols.

**PART I – ENTITY Information**

|  |  |
| --- | --- |
| **Legal Name of the Applicant:** |       |
| **Legal Address of the Applicant:** | Street Address:       |
|  | City, State, Zip:       |
| **DUNS¹ Number:** |       |

¹Defined in Section 2.1, Definitions.

**1. Authorized Representative (“AR”).** Defined in Section 2.1, Definitions.

|  |  |  |  |
| --- | --- | --- | --- |
| **Name:** |       | **Title:** |       |
| **Address:** |       |
| **City:** |       | **State:** |  | **Zip:** |  |
| **Telephone:** |       | **Fax:** |       |
| **Email Address:** |       |

**2. Backup AR.** *(Optional)* This person may sign any form for which an AR’s signature is required and will perform the functions of the AR in the event the AR is unavailable.

|  |  |  |  |
| --- | --- | --- | --- |
| **Name:** |       | **Title:** |       |
| **Address:** |       |
| **City:** |       | **State:** |  | **Zip:** |  |
| **Telephone:** |       | **Fax:** |       |
| **Email Address:** |       |

**3.** **Type of Legal Structure.** (Please indicate only one.)

[ ]  Individual [ ]  Partnership [ ]  Municipally Owned Utility

[ ]  Electric Cooperative [ ]  Limited Liability Company [ ]  Corporation

[ ]  Other:

If Applicant is not an individual, provide the state in which the Applicant is organized,      , and the date of organization:      .

**4. User Security Administrator (USA).** As defined in Section 16.12, User Security Administrator and Digital Certificates, the USA is responsible for managing the Market Participant’s access to ERCOT’s computer systems through Digital Certificates.

|  |  |  |  |
| --- | --- | --- | --- |
| **Name:** |       | **Title:** |       |
| **Address:** |       |
| **City:** |       | **State:** |  | **Zip:** |  |
| **Telephone:** |       | **Fax:** |       |
| **Email Address:** |       |

**5. Backup USA.** *(Optional)* This person may perform the functions of the USA as defined in the ERCOT Protocols in the event the USA is unavailable.

|  |  |  |  |
| --- | --- | --- | --- |
| **Name:** |       | **Title:** |       |
| **Address:** |       |
| **City:** |       | **State:** |  | **Zip:** |  |
| **Telephone:** |       | **Fax:** |       |
| **Email Address:** |       |

**6. Cybersecurity**. This contact is responsible for communicating Cybersecurity Incidents.

|  |  |  |  |
| --- | --- | --- | --- |
| **Name:** |       | **Title:** |       |
| **Address:** |       |
| **City:** |       | **State:** |       | **Zip:** |       |
| **Telephone:** |       | **Fax:** |       |
| **Email Address:** |       |

**7. Compliance Contact.** This person is responsible for compliance related issues.

|  |  |  |  |
| --- | --- | --- | --- |
| **Name:** |       | **Title:** |       |
| **Address:** |       |
| **City:** |       | **State:** |  | **Zip:** |  |
| **Telephone:** |       | **Fax:** |       |
| **Email Address:** |       |

**8. Proposed commencement date for service:**      .

**PART II – ADDiTIONAL REQUIRED Information**

**1. Officers.** ERCOT will obtain the names of all individuals and/or entities listed with the Texas Secretary of State as having binding authority for the Applicant. ERCOT will use this list of individuals to determine who can execute such documents as the Standard Form Market Participant Agreement (Section 22, Attachment A), Amendment to Standard Form Market Participant Agreement (Section 22, Attachment C), Digital Certificate Audit Attestation, etc. Alternatively, additional documentation (Articles of Incorporation, Board Resolutions, Delegation of Authority, Secretary’s Certificate, etc.) can be provided to prove binding authority for the Applicant.

**2. Affiliates and Other Registrations.** Provide the name, legal structure, and relationship of each of the Applicant’s affiliates, if applicable. See Section 2.1, Definitions, for the definition of “Affiliate.” Please also provide the name and type of any other ERCOT Market Participant registrations held by the Applicant. *(Attach additional pages if necessary.)*

**3. Qualified Scheduling Entity (QSE) Acknowledgment.** Provide all information requested in Attachment A and have the document executed by both parties. Resource Entities representing Generation Resources or Load Resources shall designate a QSE qualified to represent the Resources. Resource Entities with Settlement Only Generators (SOGs) shall designate any qualified QSE.

|  |  |  |
| --- | --- | --- |
| **Affiliate Name**(or name used for other ERCOT registration) | **Type of Legal Structure**(partnership, limited liability company, corporation, etc.) | **Relationship**(parent, subsidiary, partner, affiliate, etc.) |
|  |  |  |
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**PART III – SIGNATURE**

I affirm that I have personal knowledge of the facts stated in this application and that I have the authority to submit this application form on behalf of the Applicant. I further affirm that all statements made and information provided in this application form are true, correct and complete, and that the Applicant will provide to ERCOT any changes in such information in a timely manner.

|  |  |
| --- | --- |
| Signature of AR, Backup AR or Officer: |  |
| Printed Name of AR, Backup AR or Officer: |  |
| Date: |  |

**Attachment A – QSE Acknowledgment**

**Acknowledgment by Designated QSE for**

**Scheduling and Settlement Responsibilities with ERCOT**

The Applicant below has named the QSE listed below as its designated QSE to represent the Applicant for scheduling and Settlement transactions with ERCOT.

The Applicant’s designated QSE, listed below, hereby acknowledges that it does represent the Applicant and that it shall be responsible for the Applicant’s scheduling and Settlement transactions with ERCOT pursuant to the ERCOT Protocols.

The requested effective date for such representation is:      [[3]](#footnote-3)\*\*

or

Establish partnership at the earliest possible date [ ]

Acknowledgment by **QSE**:

|  |  |
| --- | --- |
| Signature of Authorized Representative (“AR”) for QSE: |  |
| Printed Name of AR: |       |
| Email Address of AR: |       |
| Date: |       |
| Name of Designated QSE: |       |
| DUNS of Designated QSE: |       |

Acknowledgment by **Applicant**:

|  |  |
| --- | --- |
| Signature of AR for MP: |  |
| Printed Name of AR: |       |
| Email Address of AR:  |       |
| Date: |       |
| Name of MP: |       |
| DUNS No. of MP: |       |

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| [NPRR995: Replace Section 23, Form I above with the following upon system implementation:]**RESOURCE ENTITY****APPLICATION FOR REGISTRATION**This application is for approval as a Resource Entity by the Electric Reliability Council of Texas Inc. (ERCOT) in accordance with the ERCOT Protocols. Information may be inserted electronically to expand the reply spaces as necessary. The completed, executed application will be accepted by ERCOT via email to MPRegistration@ercot.com (.pdf version), via facsimile to (512) 225-7079, or via mail to Market Participant Registration, 8000 Metropolis Drive (Building E), Suite 100, Austin, Texas 78744. If you need assistance filling out this form, or if you have any questions, please call (512) 248-3900.This application must be signed by the Authorized Representative, Backup Authorized Representative or an Officer of the company listed herein, as appropriate. ERCOT may request additional information as reasonably necessary to support operations under the ERCOT Protocols.**PART I – ENTITY Information**

|  |  |
| --- | --- |
| **Legal Name of the Applicant:** |       |
| **Legal Address of the Applicant:** | Street Address:       |
|  | City, State, Zip:       |
| **DUNS¹ Number:** |       |

¹Defined in Section 2.1, Definitions.**1. Authorized Representative (“AR”).** Defined in Section 2.1, Definitions.

|  |  |  |  |
| --- | --- | --- | --- |
| **Name:** |       | **Title:** |       |
| **Address:** |       |
| **City:** |       | **State:** |  | **Zip:** |  |
| **Telephone:** |       | **Fax:** |       |
| **Email Address:** |       |

**2. Backup AR.** *(Optional)* This person may sign any form for which an AR’s signature is required and will perform the functions of the AR in the event the AR is unavailable.

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| --- | --- | --- | --- |
| **Name:** |       | **Title:** |       |
| **Address:** |       |
| **City:** |       | **State:** |  | **Zip:** |  |
| **Telephone:** |       | **Fax:** |       |
| **Email Address:** |       |

**3.** **Type of Legal Structure.** (Please indicate only one.)[ ]  Individual [ ]  Partnership [ ]  Municipally Owned Utility [ ]  Electric Cooperative [ ]  Limited Liability Company [ ]  Corporation [ ]  Other:      If Applicant is not an individual, provide the state in which the Applicant is organized,      , and the date of organization:      .**4. User Security Administrator (USA).** As defined in Section 16.12, User Security Administrator and Digital Certificates, the USA is responsible for managing the Market Participant’s access to ERCOT’s computer systems through Digital Certificates.

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| --- | --- | --- | --- |
| **Name:** |       | **Title:** |       |
| **Address:** |       |
| **City:** |       | **State:** |  | **Zip:** |  |
| **Telephone:** |       | **Fax:** |       |
| **Email Address:** |       |

**5. Backup USA.** *(Optional)* This person may perform the functions of the USA as defined in the ERCOT Protocols in the event the USA is unavailable.

|  |  |  |  |
| --- | --- | --- | --- |
| **Name:** |       | **Title:** |       |
| **Address:** |       |
| **City:** |       | **State:** |  | **Zip:** |  |
| **Telephone:** |       | **Fax:** |       |
| **Email Address:** |       |

**6. Cybersecurity**. This contact is responsible for communicating Cybersecurity Incidents.

|  |  |  |  |
| --- | --- | --- | --- |
| **Name:** |       | **Title:** |       |
| **Address:** |       |
| **City:** |       | **State:** |       | **Zip:** |       |
| **Telephone:** |       | **Fax:** |       |
| **Email Address:** |       |

**7. Compliance Contact.** This person is responsible for compliance related issues.

|  |  |  |  |
| --- | --- | --- | --- |
| **Name:** |       | **Title:** |       |
| **Address:** |       |
| **City:** |       | **State:** |  | **Zip:** |  |
| **Telephone:** |       | **Fax:** |       |
| **Email Address:** |       |

**8. Proposed commencement date for service:**      .**PART II – ADDiTIONAL REQUIRED Information****1. Officers.** ERCOT will obtain the names of all individuals and/or entities listed with the Texas Secretary of State as having binding authority for the Applicant. ERCOT will use this list of individuals to determine who can execute such documents as the Standard Form Market Participant Agreement (Section 22, Attachment A), Amendment to Standard Form Market Participant Agreement (Section 22, Attachment C), Digital Certificate Audit Attestation, etc. Alternatively, additional documentation (Articles of Incorporation, Board Resolutions, Delegation of Authority, Secretary’s Certificate, etc.) can be provided to prove binding authority for the Applicant.**2. Affiliates and Other Registrations.** Provide the name, legal structure, and relationship of each of the Applicant’s affiliates, if applicable. See Section 2.1, Definitions, for the definition of “Affiliate.” Please also provide the name and type of any other ERCOT Market Participant registrations held by the Applicant. *(Attach additional pages if necessary.)***3. Qualified Scheduling Entity (QSE) Acknowledgment.** Provide all information requested in Attachment A and have the document executed by both parties. Resource Entities representing Generation Resources or Load Resources shall designate a QSE qualified to represent the Resources. Resource Entities with Settlement Only Generators (SOGs) or Settlement Only Energy Storage Systems (SOESSs) shall designate any qualified QSE.

|  |  |  |
| --- | --- | --- |
| **Affiliate Name**(or name used for other ERCOT registration) | **Type of Legal Structure**(partnership, limited liability company, corporation, etc.) | **Relationship**(parent, subsidiary, partner, affiliate, etc.) |
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**PART III – SIGNATURE**I affirm that I have personal knowledge of the facts stated in this application and that I have the authority to submit this application form on behalf of the Applicant. I further affirm that all statements made and information provided in this application form are true, correct and complete, and that the Applicant will provide to ERCOT any changes in such information in a timely manner.

|  |  |
| --- | --- |
| Signature of AR, Backup AR or Officer: |  |
| Printed Name of AR, Backup AR or Officer: |  |
| Date: |  |

**Attachment A – QSE Acknowledgment****Acknowledgment by Designated QSE for****Scheduling and Settlement Responsibilities with ERCOT**The Applicant below has named the QSE listed below as its designated QSE to represent the Applicant for scheduling and Settlement transactions with ERCOT.The Applicant’s designated QSE, listed below, hereby acknowledges that it does represent the Applicant and that it shall be responsible for the Applicant’s scheduling and Settlement transactions with ERCOT pursuant to the ERCOT Protocols.The requested effective date for such representation is:      [[4]](#footnote-4)\*\* or Establish partnership at the earliest possible date [ ] Acknowledgment by **QSE**:

|  |  |
| --- | --- |
| Signature of Authorized Representative (“AR”) for QSE: |  |
| Printed Name of AR: |       |
| Email Address of AR: |       |
| Date: |       |
| Name of Designated QSE: |       |
| DUNS of Designated QSE: |       |

Acknowledgment by **Applicant**:

|  |  |
| --- | --- |
| Signature of AR for MP: |  |
| Printed Name of AR: |       |
| Email Address of AR:  |       |
| Date: |       |
| Name of MP: |       |
| DUNS No. of MP: |       |

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**ERCOT Nodal Protocols**

**Section 23**

**Form J: Transmission and/or Distribution Service Provider Application for Registration**

**March 13, 2020**

Date Received: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**TRANSMISSION AND/OR DISTRIBUTION SERVICE PROVIDER (TDSP)**

**APPLICATION FOR REGISTRATION**

This application is for approval as a Transmission Service Provider (TSP), Distribution Service Provider (DSP), or both TSP and DSP by Electric Reliability Council of Texas Inc. (ERCOT) in accordance with the ERCOT Protocols. Information may be inserted electronically to expand the reply spaces as necessary. ERCOT will accept the completed, executed application via email to MPRegistration@ercot.com (.pdf version), via facsimile to (512) 225-7079, or via mail to Market Participant Registration, 8000 Metropolis Drive (Building E), Suite 100, Austin, Texas 78744. If you need assistance filling out this form, or if you have any questions, please call (512) 248-3900.

This application must be signed by the Authorized Representative (“AR”), Backup Authorized Representative or an Officer of the company listed herein, as appropriate.ERCOT may request additional information as reasonably necessary to support operations under the ERCOT Protocols.

**PART I – Company Information**

|  |  |
| --- | --- |
| **Legal Name of the Applicant:** |       |
| **Legal Address of the Applicant:** | Street Address:       |
|  | City, State, Zip:       |
| **DUNS¹ Number:** |       |

¹Defined in Section 2.1, Definitions.

**Type:** TSP [ ]  DSP [ ]  Both [ ]  as reflected on Standard Form Agreement

**1. Authorized Representative (“AR”).** Defined in Section 2.1, Definitions.

|  |  |  |  |
| --- | --- | --- | --- |
| **Name:** |       | **Title:** |       |
| **Address:** |       |
| **City:** |       | **State:** |  | **Zip:** |  |
| **Telephone:** |       | **Fax:** |       |
| **Email Address:** |       |

**2. Backup AR.** *(Optional)* This person may sign any form for which an AR’s signature is required and will perform the functions of the AR in the event the AR is unavailable.

|  |  |  |  |
| --- | --- | --- | --- |
| **Name:** |       | **Title:** |       |
| **Address:** |       |
| **City:** |       | **State:** |  | **Zip:** |  |
| **Telephone:** |       | **Fax:** |       |
| **Email Address:** |       |

**3. Type of Legal Structure.** (Please indicate only one.)

[ ]  Individual [ ]  Partnership [ ]  Municipally Owned Utility

[ ]  Electric Cooperative [ ]  Limited Liability Company [ ]  Corporation

[ ]  Other:

If Applicant is not an individual, provide the state in which the Applicant is organized,      , and the date of organization:

**4. User Security Administrator (USA).** As defined in Section 16.12, User Security Administrator and Digital Certificates, the USA is responsible for managing the Market Participant’s access to ERCOT’s computer systems through Digital Certificates.

|  |  |  |  |
| --- | --- | --- | --- |
| **Name:** |       | **Title:** |       |
| **Address:** |       |
| **City:** |       | **State:** |  | **Zip:** |  |
| **Telephone:** |       | **Fax:** |       |
| **Email Address:** |       |

**4a.** [ ]  By checking this box, Applicant hereby requests that ERCOT evaluate Applicant’s eligibility to opt out of the requirement that Market Participant designate a USA and receive Digital Certificates, and affirms the following:

(a) Applicant is applying to register with ERCOT as either a Municipally Owned Utility (MOU) or an Electric Cooperative (EC), and as a DSP and/or Load Serving Entity (LSE).

(b) Applicant is not, and will not, be designated as a Transmission Operator with ERCOT.

(c) Applicant understands that by opting out, it will not be granted access to portions of the ERCOT Market Information System (MIS) that require Digital Certificate Access.

(d) Applicant understands that it can cancel any approved opt-out request, designate a USA, and begin receiving Digital Certificates by properly completing Section 23, Form E, Notice of Change of Information, and meeting the requirements under Section 16.12.

(e) If determined ineligible, Applicant must designate a USA, receive Digital Certificates and comply with requirements under Protocol Section 16.12.

**5. Backup USA.** *(Optional)* This person may perform the functions of the USA as defined in the ERCOT Protocols in the event the USA is unavailable.

|  |  |  |  |
| --- | --- | --- | --- |
| **Name:** |       | **Title:** |       |
| **Address:** |       |
| **City:** |       | **State:** |  | **Zip:** |  |
| **Telephone:** |       | **Fax:** |       |
| **Email Address:** |       |

**6. Cybersecurity**. This contact is responsible for communicating Cybersecurity Incidents.

|  |  |  |  |
| --- | --- | --- | --- |
| **Name:** |       | **Title:** |       |
| **Address:** |       |
| **City:** |       | **State:** |       | **Zip:** |       |
| **Telephone:** |       | **Fax:** |       |
| **Email Address:** |       |

**7. TSP 24x7 Control or Operations Center.** As defined in the ERCOT Protocols, the 24x7Control or Operations Center is responsible for operational communications and shall have sufficient authority to commit and bind the TSP.

|  |  |
| --- | --- |
| **Desk Name:** |       |
| **Address:** |       |
| **City:** |       | **State:** |  | **Zip:** |  |
| **Telephone:** |       | **Fax:** |       |
| **Email Address:** |       |

**8. Compliance Contact.** This person is responsible for compliance related issues.

|  |  |  |  |
| --- | --- | --- | --- |
| **Name:** |       | **Title:** |       |
| **Address:** |       |
| **City:** |       | **State:** |  | **Zip:** |  |
| **Telephone:** |       | **Fax:** |       |
| **Email Address:** |       |

**PART II – ASSET REGISTRATION**

1. Provide Generation Load Metering Point and TDSP Read Generation information as required on the ERCOT Generation Load Metering Point(s) & TDSP Read Generation Registration Form. The form is located at <http://www.ercot.com/services/rq/tdsp/index.html>. The completed form should be attached to, and submitted with, the TDSP Registration Application.

2. Provide status of registering MOU or EC:

[ ]  **Opt-In MOU or EC** – An EC or MOU that offers Customer Choice.

[ ]  **Non-Opt-In Entity (NOIE)** – An EC or MOU that does not offer Customer Choice.

**PART III – ADDITIONAL REQUIRED INFORMATION**

**1. Officers**. ERCOT will obtain the names of all individuals and/or entities listed with the Texas Secretary of State as having binding authority for the Applicant. ERCOT will use this list of individuals to determine who can execute such documents as the Standard Form Market Participant Agreement (Section 22, Attachment A), Amendment to Standard Form Market Participant Agreement (Section 22, Attachment C), Digital Certificate Audit Attestation (DCAA), etc. Alternatively, additional documentation (Articles of Incorporation, Board Resolutions, Delegation of Authority, Secretary’s Certificate, etc.) can be provided to prove binding authority for the Applicant.

**2. Affiliates and other Registrations.** Provide the name, legal structure, and relationship of each of the Applicant’s affiliates, if applicable. See Section 2.1, Definitions, for the definition of “Affiliate.” Please also provide the name and type of any other ERCOT Market Participant registrations held by the Applicant. *(Attach additional pages if necessary.)*

|  |  |  |
| --- | --- | --- |
| **Affiliate Name**(or name used for other ERCOT registration) | **Type of Legal Structure**(partnership, limited liability company, corporation, etc.) | **Relationship**(parent, subsidiary, partner, affiliate, etc.) |
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**PART IV – SIGNATURE**

I affirm that I have personal knowledge of the facts stated in this application and that I have the authority to submit this application form on behalf of the Applicant. I further affirm that all statements made and information provided in this application form are true, correct and complete, and that the Applicant will provide to ERCOT any changes in such information in a timely manner.

|  |  |
| --- | --- |
| Signature of AR, Backup AR or Officer: |  |
| Printed Name of AR, Backup AR or Officer: |  |
| Date: |  |

**ERCOT Nodal Protocols**

**Section 23**

**Form K: Wide Area Network (WAN) Agreement**

**September 1, 2021**

**ERCOT Private Wide Area Network (WAN) Agreement**

This Private WAN Agreement (“Agreement”) is made and entered into on this       day of      ,       (“Effective Date”) by and between Electric Reliability Council of Texas, Inc. (ERCOT), a Texas non-profit corporation having an office at 8000 Metropolis Drive (Building E), Suite 100, Austin, Texas 78744 and the undersigned entity (“Participant”) (collectively, “the Parties”), having an office at the address listed below.

**1. Scope**

1.1 This Agreement sets forth the terms, conditions and prices under which ERCOT agrees to allow Participant to interconnect Participant’s data transfer system with ERCOT’s data network and facilities for the sole purpose of transferring data between ERCOT and Participant. This Agreement also sets forth the terms and conditions to maintain operational security of the ERCOT WAN for the secure transfer of data between ERCOT and Participant.

1.2 Participant represents and warrants that Participant is a Market Participant as defined by the ERCOT Protocols and has executed (or will timely execute prior to participation as a Market Participant) all agreements required of Participant by the ERCOT Protocols (Protocols Agreement(s)). This Agreement shall terminate immediately and automatically upon the termination of all Participant’s Protocols Agreement(s). “ERCOT Protocols” shall mean the document adopted by ERCOT, including any attachments or exhibits referenced in that document, as amended from time to time that contains the scheduling, operating, planning, reliability, and settlement (including customer registration) policies, rules, guidelines, procedures, standards, and criteria of ERCOT.

1.3 Except to the extent provided otherwise in this Agreement, the terms and conditions of the Protocols Agreement(s) signed between Participant and ERCOT shall apply and be incorporated by reference into this Agreement. In the event of a conflict between this Agreement and the Protocols Agreement(s), this Agreement shall control with respect to the subject matter of this Agreement.

**2. Term of Agreement**

2.1 The initial term of this Agreement shall commence on the Effective Date and expire 12 months thereafter. The term of this Agreement shall automatically renew for a successive 12-month period on each anniversary date of the Effective Date, unless either party delivers to the other party written notice to terminate as provided herein.

2.2 If Participant wishes to terminate this Agreement, it shall notify ERCOT in writing of its desire to terminate. Termination shall be effective no sooner than 60 days following receipt of such written notice by ERCOT.

2.3 In addition to any other remedies ERCOT may have at law or in equity, ERCOT may terminate this Agreement for material breach in accordance with the default provisions set forth in the Protocols Agreement(s).

2.4 ERCOT may also terminate this Agreement upon 60 days’ written notice to Participant if ERCOT amends the form of this standard form agreement. In such event, ERCOT shall provide Participant the opportunity to execute a new standard form agreement regarding the subject matter of this Agreement.

2.5 In the event of any termination of this Agreement, Participant shall reimburse ERCOT for ERCOT’s expenses incurred hereunder prior to notice of termination. If this Agreement has been terminated except as proved under Section 2.4 above, ERCOT may remove from Participant’s premises any equipment for which ERCOT has not received payment and Participant shall reimburse ERCOT for the cost of such removal.

**3. Interconnection with and use of ERCOT WAN**

3.1 Participant shall interconnect its facilities with ERCOT in a manner consistent with and defined by ERCOT. ERCOT shall define and demarcate the Point(s) of Interconnection (POI(s)) between Participant and ERCOT.

3.2 ERCOT shall provide, in accordance with its reasonable discretion and control, the design, engineering, procurement, and installation of the equipment and facilities necessary to interconnect Participant’s Facilities to the ERCOT WAN. Participant shall reimburse ERCOT for ERCOT’s expenses incurred in design, engineering, procurement, and installation of such equipment and facilities for each such new installation. The reimbursed costs for each new installation shall not exceed the fees designated in the ERCOT Fee Schedule. Only ERCOT-authorized personnel shall conduct network problem diagnosis and administrative functions, including, but not limited to, provisioning, monitoring, and auditing the ERCOT WAN. Participant will reimburse ERCOT’s cost of performing or acquiring such services per month per installation during the initial term hereof and any subsequent renewal terms. The monthly cost per installation shall not exceed the fees designated in the ERCOT Fee Schedule. Participant will also reimburse ERCOT’s cost of providing or acquiring data transport service to Participant, which cost will vary according to Participant’s location.

3.3 With respect to access to the ERCOT WAN, Participant will comply with ERCOT’s security and safety procedures and requirements, including, but not limited to, access restrictions, sign in, and identification requirements. Participant will also comply with all ERCOT policies and procedures regarding use of the ERCOT WAN (as such policies and procedures may be amended from time to time), including, but not limited to, the document entitled “Communicating with ERCOT,” the document entitled “QSE Qualification Testing,” the ERCOT Operating Guides and ERCOT Protocols.

3.4 Participant shall consistently maintain the security of its computer systems (including the POI, support equipment, systems, tools, and/or data required under this Agreement) in accordance with industry standards for computer system security.

3.5 Participant shall maintain operational security of the ERCOT WAN for the uninterrupted transfer of data between ERCOT and Participant. Participant agrees that the integrity of the data provided through the WAN is essential, and will take all steps and responsibility for ensuring the integrity of such data. Such steps shall include, at a minimum, ensuring the prevention of any remote electronic connections by unauthorized persons or organizations through Participant’s network to the ERCOT WAN connection point. Particularly, Participant’s systems must deny any connectivity with Participant’s internet access point to unauthorized persons or organizations.

3.6 If ERCOT determines, within its reasonable discretion, that Participant is not in compliance with this Agreement or ERCOT’s security procedures and requirements, ERCOT may prohibit Participant from transferring data using the WAN.

3.7 Where one Party’s information resides on the other Party’s computer system, the Party in control of the computer system shall take, or cause the custodian of the computer system to take commercially reasonable measures to prevent unauthorized access to such information by others who have access to that computer system. Each Party agrees that it, its employees, agents and representatives who have access to its computer systems at its facilities will not use the WAN and/or the POI to obtain or to attempt to obtain unauthorized access to information of the other Party or information of a third party that may reside on the other Party’s computer system.

**4. Network Maintenance and Management**

4.1 As part of the WAN Application, Participant has provided ERCOT contact information for network maintenance and management. Participant may change such contact information by submitting a Notice of Change of Information (NCI) (Section 23, Form E) to ERCOT, and referring specifically to this Agreement.

4.2 Participant will not use any service provided under this Agreement in a manner that impairs the quality of service to other WAN users. Participant shall cooperate with ERCOT in the testing of interconnection to the WAN and in the prevention or correction of disruption or loss of service over the WAN.

4.3 ERCOT agrees to provide Participant reasonable written notice of changes in the information necessary for the transmission and routing of data using ERCOT’s facilities or networks, as well as other changes that affect the interoperability of those respective facilities and networks.

4.4 Participant agrees to notify the ERCOT Help Desk immediately of any intrusion or virus event within its network or systems connected to the ERCOT WAN so that ERCOT can take steps to ensure the integrity of the rest of the WAN.

**5. Compensation**

5.1 Participant agrees to reimburse ERCOT for ERCOT’s expenses incurred in the design, engineering, procurement, and installation of equipment and facilities hereunder. Participant further agrees to pay ERCOT for any additional services rendered by ERCOT under this Agreement; to the extent such expenses and chargers are assessed pursuant to Section 3.2 above.

5.2 ERCOT will remit a bill to Participant to reflect the charges required and permitted pursuant to Section 3.2 above under this Agreement, any applicable taxes, and other costs or charges that are the responsibility of Participant, but were incurred by ERCOT. Payment is due within 30 days of receipt of the bill.

5.3 Payments shall be made either through bank draft or wire transfer, as agreed upon by the parties. Interest shall accrue on any past due amount at the lesser of: (a) 18% per annum; or (b) the maximum rate permitted by applicable law. If Participant fails to make payment within 30 days of receipt of the bill, ERCOT may, at its option, terminate this Agreement.

**6. Liability**

6.1 EXCEPT TO THE EXTENT REQUIRED BY STATE OR FEDERAL LAW, ERCOT MAKES NO REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO ANY WARRANTY AS TO MERCHANT ABILITY OR FITNESS FOR INTENDED OR PARTICULAR PURPOSE WITH RESPECT TO EQUIPMENT OR SERVICES PROVIDED HEREUNDER. ADDITIONALLY, ERCOT MAKES NO WARRANTIES, EXPRESS OR IMPLIED, CONCERNING PARTICIPANT’S (OR ANY THIRD PARTY’S) RIGHTS WITH RESPECT TO INTELLECTUAL PROPERTY OR THIRD PARTY CONTRACT RIGHTS, INCLUDING WHETHER SUCH RIGHTS WILL BE VIOLATED BY PARTICIPANT’S INTERCONNECTION WITH ERCOT’S WAN OR PARTICIPANT’S USE OF THE OTHER EQUIPMENT OR FACILITIES FURNISHED UNDER THIS AGREEMENT.

6.2 Each Party understands and acknowledges that third parties might obtain unauthorized remote access to the other Party’s computer systems, and further, that there exists the possibility that such third parties may attempt unauthorized access to the computer systems or information thereon, that computer viruses may be transmitted, and that damage might result to a Party’s computer systems or data thereon, or that the confidentiality of a Party’s information may thereby be breached. ACCORDINGLY, EACH PARTY SHALL BE SOLELY AND EXCLUSIVELY RESPONSIBLE FOR SAFEGUARDING ITS OWN COMPUTER SYSTEMS AND INFORMATION THEREON FROM SUCH UNAUTHORIZED ACCESS OR DAMAGE OCCURRING THROUGH THE INTERCONNECTION WITH ERCOT UNDER THIS AGREEMENT AND FOR THE ACTIONS OF ITS EMPLOYEES, AGENTS, AND REPRESENTATIVES WHO USE ITS COMPUTER SYSTEMS.

**7. Notices**

Except as provided herein for operational communications, all notices required to be given under this Agreement shall be in writing, and shall be deemed delivered three days after being deposited in the U.S. mail, first class postage prepaid, registered (or certified) mail, return receipt requested, addressed to the other Party at the address specified in this Agreement or shall be deemed delivered on the day of receipt if sent in another manner requiring a signed receipt, such as courier delivery or Federal Express delivery. ERCOT may change its address for such notices by delivering to Participant a written notice referring specifically to this Agreement. Participant may change its address for such notices by submitting an NCI (Section 23, Form E) to ERCOT and referring specifically to this Agreement.

**8. Entire Agreement and Amendments**

8.1 This Agreement constitutes the entire agreement between the Parties concerning the subject matter hereof and supersedes any prior agreements, representations, statements, negotiations, understandings, proposals or undertakings, oral or written, with respect to the subject matter expressly set forth herein.

8.2 Neither Party will be bound by an amendment, modification or additional term unless it is reduced to writing and signed by an authorized representative of the Party sought to be bound.

*Each person whose signature appears below represents and warrants that he or she has authority to bind the Party on whose behalf he or she has executed this Agreement.*

*Executed and Agreed:*

|  |  |
| --- | --- |
| Electric Reliability Council of Texas, Inc.:Signature: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Printed Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Title: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_8000 Metropolis Drive (Building E), Suite 100Austin, Texas 78744(512) 225-7000 | Participant:      Signature: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Date:      Printed Name:      Title:      Address:      City, State, Zip:      Type of Organization:      Organized Under the Laws of:       |

|  |  |  |
| --- | --- | --- |
| [NPRR1005: Replace Section 23, Form K above with the following upon system implementation:]**ERCOT Private Wide Area Network (WAN) Agreement**This Private WAN Agreement (“Agreement”) is made and entered into on this       day of      ,       (“Effective Date”) by and between Electric Reliability Council of Texas, Inc. (ERCOT), a Texas non-profit corporation having an office at 8000 Metropolis Drive (Building E), Suite 100, Austin, Texas 78744 and the undersigned entity (“Participant”) (collectively, “the Parties”), having an office at the address listed below.**1. Scope**1.1 This Agreement sets forth the terms, conditions and prices under which ERCOT agrees to allow Participant to interconnect Participant’s data transfer system with ERCOT’s data network and facilities for the sole purpose of transferring data between ERCOT and Participant. This Agreement also sets forth the terms and conditions to maintain operational security of the ERCOT WAN for the secure transfer of data between ERCOT and Participant.1.2 Participant represents and warrants that Participant is a Market Participant as defined by the ERCOT Protocols and has executed (or will timely execute prior to participation as a Market Participant) all agreements required of Participant by the ERCOT Protocols (Protocols Agreement(s)). This Agreement shall terminate immediately and automatically upon the termination of all Participant’s Protocols Agreement(s). “ERCOT Protocols” shall mean the document adopted by ERCOT, including any attachments or exhibits referenced in that document, as amended from time to time that contains the scheduling, operating, planning, reliability, and settlement (including customer registration) policies, rules, guidelines, procedures, standards, and criteria of ERCOT.1.3 Except to the extent provided otherwise in this Agreement, the terms and conditions of the Protocols Agreement(s) signed between Participant and ERCOT shall apply and be incorporated by reference into this Agreement. In the event of a conflict between this Agreement and the Protocols Agreement(s), this Agreement shall control with respect to the subject matter of this Agreement.**2. Term of Agreement**2.1 The initial term of this Agreement shall commence on the Effective Date and expire 12 months thereafter. The term of this Agreement shall automatically renew for a successive 12-month period on each anniversary date of the Effective Date, unless either party delivers to the other party written notice to terminate as provided herein.2.2 If Participant wishes to terminate this Agreement, it shall notify ERCOT in writing of its desire to terminate. Termination shall be effective no sooner than 60 days following receipt of such written notice by ERCOT.2.3 In addition to any other remedies ERCOT may have at law or in equity, ERCOT may terminate this Agreement for material breach in accordance with the default provisions set forth in the Protocols Agreement(s).2.4 ERCOT may also terminate this Agreement upon 60 days’ written notice to Participant if ERCOT amends the form of this standard form agreement. In such event, ERCOT shall provide Participant the opportunity to execute a new standard form agreement regarding the subject matter of this Agreement.2.5 In the event of any termination of this Agreement, Participant shall reimburse ERCOT for ERCOT’s expenses incurred hereunder prior to notice of termination. If this Agreement has been terminated except as proved under Section 2.4 above, ERCOT may remove from Participant’s premises any equipment for which ERCOT has not received payment and Participant shall reimburse ERCOT for the cost of such removal.**3. Interconnection with and use of ERCOT WAN**3.1 Participant shall interconnect its facilities with ERCOT in a manner consistent with and defined by ERCOT. ERCOT shall define and demarcate the location of interconnection with the ERCOT WAN.3.2 ERCOT shall provide, in accordance with its reasonable discretion and control, the design, engineering, procurement, and installation of the equipment and facilities necessary to interconnect Participant’s Facilities to the ERCOT WAN. Participant shall reimburse ERCOT for ERCOT’s expenses incurred in design, engineering, procurement, and installation of such equipment and facilities for each such new installation. The reimbursed costs for each new installation shall not exceed the fees designated in the ERCOT Fee Schedule. Only ERCOT-authorized personnel shall conduct network problem diagnosis and administrative functions, including, but not limited to, provisioning, monitoring, and auditing the ERCOT WAN. Participant will reimburse ERCOT’s cost of performing or acquiring such services per month per installation during the initial term hereof and any subsequent renewal terms. The monthly cost per installation shall not exceed the fees designated in the ERCOT Fee Schedule. Participant will also reimburse ERCOT’s cost of providing or acquiring data transport service to Participant, which cost will vary according to Participant’s location.3.3 With respect to access to the ERCOT WAN, Participant will comply with ERCOT’s security and safety procedures and requirements, including, but not limited to, access restrictions, sign in, and identification requirements. Participant will also comply with all ERCOT policies and procedures regarding use of the ERCOT WAN (as such policies and procedures may be amended from time to time), including, but not limited to, the document entitled “Communicating with ERCOT,” the document entitled “QSE Qualification Testing,” the ERCOT Operating Guides and ERCOT Protocols.3.4 Participant shall consistently maintain the security of its computer systems (including the interconnection with the ERCOT WAN, support equipment, systems, tools, and/or data required under this Agreement) in accordance with industry standards for computer system security.3.5 Participant shall maintain operational security of the ERCOT WAN for the uninterrupted transfer of data between ERCOT and Participant. Participant agrees that the integrity of the data provided through the WAN is essential, and will take all steps and responsibility for ensuring the integrity of such data. Such steps shall include, at a minimum, ensuring the prevention of any remote electronic connections by unauthorized persons or organizations through Participant’s network to the ERCOT WAN connection point. Particularly, Participant’s systems must deny any connectivity with Participant’s internet access point to unauthorized persons or organizations.3.6 If ERCOT determines, within its reasonable discretion, that Participant is not in compliance with this Agreement or ERCOT’s security procedures and requirements, ERCOT may prohibit Participant from transferring data using the WAN.3.7 Where one Party’s information resides on the other Party’s computer system, the Party in control of the computer system shall take, or cause the custodian of the computer system to take commercially reasonable measures to prevent unauthorized access to such information by others who have access to that computer system. Each Party agrees that it, its employees, agents and representatives who have access to its computer systems at its facilities will not use the WAN and/or the interconnection with the ERCOT WAN to obtain or to attempt to obtain unauthorized access to information of the other Party or information of a third party that may reside on the other Party’s computer system.**4. Network Maintenance and Management**4.1 As part of the WAN Application, Participant has provided ERCOT contact information for network maintenance and management. Participant may change such contact information by submitting a Notice of Change of Information (NCI) (Section 23, Form E) to ERCOT, and referring specifically to this Agreement.4.2 Participant will not use any service provided under this Agreement in a manner that impairs the quality of service to other WAN users. Participant shall cooperate with ERCOT in the testing of interconnection to the WAN and in the prevention or correction of disruption or loss of service over the WAN.4.3 ERCOT agrees to provide Participant reasonable written notice of changes in the information necessary for the transmission and routing of data using ERCOT’s facilities or networks, as well as other changes that affect the interoperability of those respective facilities and networks.4.4 Participant agrees to notify the ERCOT Help Desk immediately of any intrusion or virus event within its network or systems connected to the ERCOT WAN so that ERCOT can take steps to ensure the integrity of the rest of the WAN.**5. Compensation**5.1 Participant agrees to reimburse ERCOT for ERCOT’s expenses incurred in the design, engineering, procurement, and installation of equipment and facilities hereunder. Participant further agrees to pay ERCOT for any additional services rendered by ERCOT under this Agreement; to the extent such expenses and chargers are assessed pursuant to Section 3.2 above.5.2 ERCOT will remit a bill to Participant to reflect the charges required and permitted pursuant to Section 3.2 above under this Agreement, any applicable taxes, and other costs or charges that are the responsibility of Participant, but were incurred by ERCOT. Payment is due within 30 days of receipt of the bill.5.3 Payments shall be made either through bank draft or wire transfer, as agreed upon by the parties. Interest shall accrue on any past due amount at the lesser of: (a) 18% per annum; or (b) the maximum rate permitted by applicable law. If Participant fails to make payment within 30 days of receipt of the bill, ERCOT may, at its option, terminate this Agreement.**6. Liability**6.1 EXCEPT TO THE EXTENT REQUIRED BY STATE OR FEDERAL LAW, ERCOT MAKES NO REPRESENTATIONS OR WARRANTIES, EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO ANY WARRANTY AS TO MERCHANT ABILITY OR FITNESS FOR INTENDED OR PARTICULAR PURPOSE WITH RESPECT TO EQUIPMENT OR SERVICES PROVIDED HEREUNDER. ADDITIONALLY, ERCOT MAKES NO WARRANTIES, EXPRESS OR IMPLIED, CONCERNING PARTICIPANT’S (OR ANY THIRD PARTY’S) RIGHTS WITH RESPECT TO INTELLECTUAL PROPERTY OR THIRD PARTY CONTRACT RIGHTS, INCLUDING WHETHER SUCH RIGHTS WILL BE VIOLATED BY PARTICIPANT’S INTERCONNECTION WITH ERCOT’S WAN OR PARTICIPANT’S USE OF THE OTHER EQUIPMENT OR FACILITIES FURNISHED UNDER THIS AGREEMENT.6.2 Each Party understands and acknowledges that third parties might obtain unauthorized remote access to the other Party’s computer systems, and further, that there exists the possibility that such third parties may attempt unauthorized access to the computer systems or information thereon, that computer viruses may be transmitted, and that damage might result to a Party’s computer systems or data thereon, or that the confidentiality of a Party’s information may thereby be breached. ACCORDINGLY, EACH PARTY SHALL BE SOLELY AND EXCLUSIVELY RESPONSIBLE FOR SAFEGUARDING ITS OWN COMPUTER SYSTEMS AND INFORMATION THEREON FROM SUCH UNAUTHORIZED ACCESS OR DAMAGE OCCURRING THROUGH THE INTERCONNECTION WITH ERCOT UNDER THIS AGREEMENT AND FOR THE ACTIONS OF ITS EMPLOYEES, AGENTS, AND REPRESENTATIVES WHO USE ITS COMPUTER SYSTEMS.**7. Notices**Except as provided herein for operational communications, all notices required to be given under this Agreement shall be in writing, and shall be deemed delivered three days after being deposited in the U.S. mail, first class postage prepaid, registered (or certified) mail, return receipt requested, addressed to the other Party at the address specified in this Agreement or shall be deemed delivered on the day of receipt if sent in another manner requiring a signed receipt, such as courier delivery or Federal Express delivery. ERCOT may change its address for such notices by delivering to Participant a written notice referring specifically to this Agreement. Participant may change its address for such notices by submitting an NCI (Section 23, Form E) to ERCOT and referring specifically to this Agreement.**8. Entire Agreement and Amendments**8.1 This Agreement constitutes the entire agreement between the Parties concerning the subject matter hereof and supersedes any prior agreements, representations, statements, negotiations, understandings, proposals or undertakings, oral or written, with respect to the subject matter expressly set forth herein.8.2 Neither Party will be bound by an amendment, modification or additional term unless it is reduced to writing and signed by an authorized representative of the Party sought to be bound.*Each person whose signature appears below represents and warrants that he or she has authority to bind the Party on whose behalf he or she has executed this Agreement.**Executed and Agreed:*

|  |  |
| --- | --- |
| Electric Reliability Council of Texas, Inc.:Signature: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Printed Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Title: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_8000 Metropolis Drive (Building E), Suite 100Austin, Texas 78744(512) 225-7000 | Participant:      Signature: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_Date:      Printed Name:      Title:      Address:      City, State, Zip:      Type of Organization:      Organized Under the Laws of:       |

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**ERCOT Nodal Protocols**

**Section 23**

**Form L: Digital Certificate Audit Attestation**

**September 1, 2019**

**Digital Certificate Audit Attestation**

Pursuant to Section 16.12.3, Market Participant Audits of User Security Administrators and Digital Certificates, each Market Participant must verify compliance with the Digital Certificate use requirements set forth in the ERCOT Protocols. Market Participants must complete this form and return it via (i) email to DCAA@ercot.com (.pdf version); or (ii) regular mail to: ERCOT, Market Participant Registration, 8000 Metropolis Drive (Building E), Suite 100, Austin, Texas 78744. This audit and attestation shall be completed for *each* DUNS Number the Market Participant has currently registered with ERCOT.

|  |  |
| --- | --- |
| **Legal Name of the Market Participant:** |       |
| **Market Participant Type:** | **[ ]  CP [ ]  CRRAH [ ]  IMRE [ ]  LSE [ ]  QSE [ ]  Sub-QSE****[ ]  Resource [ ]  TSP and/or DSP** |
| **DUNS Number:** |       |
| **User Security Administrator (USA):** |       |
| **Backup USA (if applicable):** |       |

Market Participant hereby affirms the following:

1. Market Participant has generated a list of its registered User Security Administrator (USA), Backup USA, and Digital Certificate holders (“Certificate Holders”), for the DUNS Number indicated above, generated through the Market Participant Identity Management (MPIM) Application within the Market Information System (MIS) (the List), and if Market Participant has any corrections to the List, Market Participant has provided corrections to ERCOT.
2. Market Participant and each listed USA, Backup USA, and Certificate Holder meet the applicable requirements of paragraph (1)(a) of 16.12.1, USA Responsibilities and Qualifications for Digital Certificate Holders.
3. Market Participant and each listed USA, Backup USA, and Certificate Holders are not subject to any of the conditions that would require revocation as described in paragraph (1)(b) of Section 16.12.1.
4. Each listed USA, Backup USA, and Certificate Holder is currently employed by or is an authorized agent contracted with the Market Participant.
5. The Market Participant has verified that the listed USA and Backup USA is authorized to be a USA.
6. Each Certificate Holder is authorized to retain and use the Digital Certificate.
7. Each listed Certificate Holder needs the Digital Certificate to perform his or her job functions.
8. Market Participant has requested revocation of Digital Certificates when required by paragraph (1)(b) of Section 16.12.1.
9. Market Participant has complied with the audit requirements of Section 16.12.3.

Market Participant has found that the following Certificate Holder(s) no longer met the required criteria in paragraph (1)(a) of Section 16.12.1. Market Participant to include: (i) the name of the ineligible Certificate Holder; (ii) reason for ineligibility; and (iii) date upon which Certificate Holder became ineligible.

I affirm that I have personal knowledge of the facts stated in this Digital Certificate Audit Attestation (DCAA) and have the authority to submit this DCAA on behalf of the Market Participant listed above.

**Officer/Executive/Employee:**

**Name and Title:**

 **Signature: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Date:**

**ERCOT Nodal Protocols**

**Section 23**

**Form M: Independent Market Information System Registered Entity (IMRE) Application for Registration**

**March 13, 2020**

Date Received: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**INDEPENDENT MARKET INFORMATION SYSTEM REGISTERED ENTITY (IMRE)**

**APPLICATION FOR REGISTRATION**

This application is for approval as an IMRE by the Electric Reliability Council of Texas Inc. (ERCOT) in accordance with the ERCOT Protocols. Information may be inserted electronically to expand the reply spaces as necessary. ERCOT will accept the completed, executed application via email to MPRegistration@ercot.com (.pdf version) or via mail to Market Participant Registration, 8000 Metropolis Drive (Building E), Suite 100, Austin, Texas 78744. In addition to the application, ERCOT must receive an application fee in the amount of $500 via check or wire transfer. If you need assistance filling out this form, or if you have any questions, please call (512) 248-3900.

This application must be signed by the Authorized Representative, Backup Authorized Representative or an Officer of the company listed herein, as appropriate. ERCOT may request additional information as reasonably necessary to support operations under the ERCOT Protocols.

**PART I – ENTITY Information**

|  |  |
| --- | --- |
| **Legal Name of the Applicant:** |       |
| **Legal Address of the Applicant:** | Street Address:       |
|  | City, State, Zip:       |
| **DUNS¹ Number:** |       |

**¹**Defined in Section 2.1, Definitions.

**1. Authorized Representative (AR)**.Defined in Section 2.1, Definitions.

|  |  |  |  |
| --- | --- | --- | --- |
| **Name:** |       | **Title:** |       |
| **Address:** |       |
| **City:** |       | **State:** |       | **Zip:** |       |
| **Telephone:** |       | **Fax:** |       |
| **Email Address:** |       |

**2. Backup AR.** *(Optional)* This person may sign any form for which an AR’s signature is required and will perform the functions of the AR in the event the AR is unavailable.

|  |  |  |  |
| --- | --- | --- | --- |
| **Name:** |       | **Title:** |       |
| **Address:** |       |
| **City:** |       | **State:** |       | **Zip:** |       |
| **Telephone:** |       | **Fax:** |       |
| **Email Address:** |       |

**3. Type of Legal Structure**. (Please indicate only one.)

[ ]  Individual [ ]  Partnership [ ]  Municipally Owned Utility

[ ]  Electric Cooperative [ ]  Limited Liability Company [ ]  Corporation

[ ]  Other:

**If Applicant is not an individual, provide the state in which the Applicant is organized,      , and the date of organization:**

**4. User Security Administrator (USA)**.As defined in Section 16.12, User Security Administrator and Digital Certificates, the USA is responsible for managing the Market Participant’s access to ERCOT’s computer systems through Digital Certificates.

|  |  |  |  |
| --- | --- | --- | --- |
| **Name:** |       | **Title:** |       |
| **Address:** |       |
| **City:** |       | **State:** |       | **Zip:** |       |
| **Telephone:** |       | **Fax:** |       |
| **Email Address:** |       |

**5. Backup USA**. *(Optional)* This person may perform the functions of the USA as defined in the ERCOT Protocols in the event the USA is unavailable.

|  |  |  |  |
| --- | --- | --- | --- |
| **Name:** |       | **Title:** |       |
| **Address:** |       |
| **City:** |       | **State:** |       | **Zip:** |       |
| **Telephone:** |       | **Fax:** |       |
| **Email Address:** |       |

**6. Cybersecurity**. This contact is responsible for communicating Cybersecurity Incidents.

|  |  |  |  |
| --- | --- | --- | --- |
| **Name:** |       | **Title:** |       |
| **Address:** |       |
| **City:** |       | **State:** |       | **Zip:** |       |
| **Telephone:** |       | **Fax:** |       |
| **Email Address:** |       |

**PART II – ADDiTIONAL REQUIRED Information**

**1. Officers.** ERCOT will obtain the names of all individuals and/or entities listed with the Texas Secretary of State or otherwise designated as having binding authority for the Applicant. ERCOT will use this list of individuals to determine who can execute such documents as the Standard Form Market Participant Agreement (SFA), Amendment to the SFA, Digital Certificate Audit Attestation, etc. Alternatively, additional documentation (Articles of Incorporation, Board Resolutions, Delegation of Authority, Secretary’s Certificate, etc.) can be provided to prove binding authority for the Applicant.

**2. Affiliates and Other Registrations.** Provide the name, legal structure, and relationship of each of the Applicant’s affiliates, if applicable. See Section 2.1, Definitions, for the definition of “Affiliate.” Please also provide the name and type of any other ERCOT Market Participant registrations held by the Applicant. *(Attach additional pages if necessary.)*

|  |  |  |
| --- | --- | --- |
| **Affiliate Name**(or name used for other ERCOT registration) | **Type of Legal Structure**(partnership, limited liability company, corporation, etc.) | ***Relationship***(parent, subsidiary, partner, affiliate, etc.) |
|  |  |  |
|  |  |  |
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**PART III – SIGNATURE**

I affirm that I have personal knowledge of the facts stated in this application and that I have the authority to submit this application form on behalf of the Applicant. I further affirm that all statements made and information provided in this application form are true, correct and complete, and that the Applicant will provide to ERCOT any changes in such information in a timely manner.

|  |  |
| --- | --- |
| **Signature of AR, Backup AR or Officer:** |  |
| **Printed Name of AR, Backup AR or Officer:** |       |
| **Date:** |       |

**ERCOT Nodal Protocols**

**Section 23**

**Form N: Pricing Election for Settlement Only Distribution Generators and Settlement Only Transmission Generators**

**September 1, 2020**

Date Received: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**PRICING ELECTION FOR SETTLEMENT ONLY DISTRIBUTION GENERATORS AND SETTLEMENT ONLY TRANSMISSION GENERATORS**

A Resource Entity with a Settlement Only Distribution Generator (SODG) or Settlement Only Transmission Generator (SOTG) may use this form to indicate its election to opt out of nodal pricing for one or more SODGs or SOTGs and to continue receiving Load Zone pricing in accordance with paragraph (5) of Section 6.6.3.9, Real-Time Payment or Charge for Energy from a Settlement Only Distribution Generator (SODG) or a Settlement Only Transmission Generator (SOTG), and other related sections. An SODG or SOTG is eligible for Load Zone pricing if, by January 1, 2019, it was either operational or was subject to a Power Purchase or Tolling Agreement (PPA) or Transmission and/or Distribution Service Provider (TDSP) interconnection agreement or had an executed agreement with a developer. If the unit was not operational on or before January 1, 2019, a dated copy of the executed PPA or TDSP interconnection agreement or agreement with a developer must be submitted with this form. This application must be received by ERCOT no later than December 31, 2019.

A Resource Entity representing an SODG or SOTG that has opted out of nodal pricing may also use this form to exercise a one-time irrevocable decision to discontinue receiving Load Zone pricing and to begin receiving applicable nodal pricing. The nodal price will be the price at the Electrical Bus associated with the SODG or SOTG, as described in Section 6.6.3.9.

Load Zone pricing for any SODGs and SOTGs with approved opt-out applications will expire on December 31, 2029. Beginning January 1, 2030, and thenceforth, all SODGs and SOTGs will receive nodal energy pricing.

Information requested below may be inserted electronically to expand the reply spaces for the purpose of submitting an opt-out election for more than one SODG or SOTG, or as otherwise necessary. ERCOT will accept the completed, executed application via email to MPRegistration@ercot.com (.pdf version), via facsimile to (512) 225-7079, or via mail to Market Participant Registration, 8000 Metropolis Drive (Building E), Suite 100, Austin, Texas 78744. If you need assistance filling out this form, or if you have any questions, please call (512) 248-3900.

This application must be signed by the Authorized Representative (“AR”), Backup AR, or any officer with the authority to bind the Resource Entity.ERCOT may request additional information if necessary.

**PART I – RESOURCE REGISTRATION INFORMATION FOR SODG OR SOTG**

Indicate the purpose of this submission by checking one:

|  |  |
| --- | --- |
| Opt out of nodal pricing (no later than Dec. 31, 2019) | [ ]  |
| Discontinue Load Zone pricing (for SODG/SOTG units that previously opted out of nodal pricing) | [ ]  |

**SODG** – Identify the SODG as detailed in its Resource Registration information. If this application is for an SOTG, leave this section blank.

|  |  |
| --- | --- |
| **GENCODE** |  |

**SOTG** – Identify the SOTG as detailed in its Resource Registration information. If this application is for an SODG, leave this section blank.

|  |  |
| --- | --- |
| **GENCODE** |  |

**Attached Documents.** If the SODG or SOTG unit that is the subject of this application was not operational on or before January 1, 2019, the unit will be eligible for nodal opt-out status only if a complete and certified copy of an executed PPA with the unit’s Counter-Party, or a complete and certified copy of the TDSP interconnection agreement, or executed agreement with a developer is submitted with this application. The PPA or TDSP interconnection agreement or agreement with a developer must be dated on or before January 1, 2019. *(Attach pages as necessary.)*

**PART II – SIGNATURE**

I affirm that I have personal knowledge of the facts stated in this application and that I have the authority to submit this application form on behalf of the Resource Entity named below. I further affirm that all statements made and information provided in this application form, including any attachments, are true, correct and complete, and that the SODGs and SOTGs identified above are eligible to opt out of nodal pricing under Section 6.6.3.9.

|  |  |
| --- | --- |
| Name of Resource Entity |  |
| Signature of AR, Backup AR or Officer: |  |
| Printed Name of AR, Backup AR or Officer: |  |
| Date: |  |

1. \*\**Actual effective date will depend on time needed to implement the relationship in ERCOT systems once ERCOT has received all necessary information (a minimum of three Business Days) and may be later than the requested effective date. ERCOT will notify the parties of the actual effective date*. [↑](#footnote-ref-1)
2. \*\* *Actual effective date will depend on time needed to implement the relationship in ERCOT systems once ERCOT has received all necessary information (a minimum of three Business Days), and may be later than the requested effective date. ERCOT will notify the parties of the actual effective date*. [↑](#footnote-ref-2)
3. \*\* *Actual effective date will depend on time needed to implement the relationship in ERCOT systems once ERCOT has received all necessary information (a minimum of three Business Days), and may be later than the requested effective date. ERCOT will notify the parties of the actual effective date*. [↑](#footnote-ref-3)
4. \*\* *Actual effective date will depend on time needed to implement the relationship in ERCOT systems once ERCOT has received all necessary information (a minimum of three Business Days), and may be later than the requested effective date. ERCOT will notify the parties of the actual effective date*. [↑](#footnote-ref-4)